

UNITED STATES OF AMERICA  
CENTERS FOR DISEASE CONTROL

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NATIONAL INSTITUTE FOR OCCUPATIONAL  
SAFETY AND HEALTH

+ + + + +

ADVISORY BOARD ON RADIATION AND  
WORKER HEALTH

+ + + + +

67th MEETING

+ + + + +

THURSDAY  
FEBRUARY 11, 2010

+ + + + +

The meeting convened at 9:00 a.m.,  
Pacific Standard Time, in the Marriott  
Manhattan Beach, 1400 Parkview Avenue,  
Manhattan Beach, CA, James M. Melius,  
Chairman, presiding.

PRESENT:

JAMES M. MELIUS, Chairman  
HENRY ANDERSON, Member  
JOSIE BEACH, Member  
BRADLEY P. CLAWSON, Member  
R. WILLIAM FIELD, Member  
MICHAEL H. GIBSON, Member\*  
MARK GRIFFON, Member  
RICHARD LEMEN, Member  
JAMES E. LOCKEY, Member  
WANDA I. MUNN, Member  
JOHN W. POSTON, SR., Member

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PRESENT: (continued)

ROBERT W. PRESLEY, Member  
 DAVID B. RICHARDSON, Member\*  
 GENEVIEVE S. ROESSLER, Member  
 PHILLIP SCHOFIELD, Member  
 PAUL L. ZIEMER, Member  
 TED KATZ, Designated Federal Official

REGISTERED AND/OR PUBLIC COMMENT PARTICIPANTS

ADAMS, NANCY, NIOSH Contractor  
 AL-NABULSI, ISAF, DOE  
 BRADFORD, SHANNON, OCAS  
 BURGOS, ZAIDA, NIOSH Contractor  
 CANO, REGINA, DOE  
 CRUZ, RUBEN, CDC  
 DARNELL, PETE, OCAS  
 GLOVER, SAM, OCAS  
 HOWELL, EMILY, HHS  
 HINNEFELD, STU, OCAS  
 FITZGERALD, JOE, SC&A  
 KOTSCH, JEFF, DOL  
 LAM, LIVIA, Senate Committee on Health,  
 Education, Labor, and Pensions\*  
 LIN, JENNY, HHS  
 MAKHIJANI, ARJUN, SC&A  
 MAURO, JOHN, SC&A  
 MCFEE, MATTHEW, ORAU Team  
 MILLER, RICHARD, House Committee on Education  
 and Labor\*  
 NETON, JIM, OCAS  
 PRESLEY, LOUISE  
 RAFKY, MICHAEL, HHS  
 ROBERTSON-DEMERS, KATHRYN, SC&A  
 RUTHERFORD, LaVON, OCAS  
 TURNER, LEROY, OCAS  
 VON ZEPPELIN, ROBERT, Westinghouse Electric  
 Corp. Petitioner\*  
 WADE, LEW, OCAS  
 ZEITOUN, ABE, SC&A

\*Participating via telephone

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

2 (9:04 a.m.)

3 MR. KATZ: Good morning,  
4 everybody, for the third day of the Board  
5 meeting. Let me again -- this is the Advisory  
6 Board on Radiation Worker Health, of course.  
7 For folks on the phone, let me check first to  
8 see if we have our two at-large Board Members  
9 present already.

10 So, Dr. Richardson, are you with  
11 us?

12 MEMBER RICHARDSON: Yes, I am.

13 MR. KATZ: Great. And Mr. Gibson.  
14 There is a possibility he won't be here for  
15 all of the meeting.

16 CHAIRMAN MELIUS: Actually, Mike  
17 emailed. He thought he would be on later this  
18 morning, our time.

19 MR. KATZ: That is right. Then  
20 just let me remind everyone on the phone,  
21 please, to mute your phones. Use \*6, and if  
22 you need to come off mute to address the

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1 Board, you just press \*6 again. Then it will  
2 bring you back online.

3 CHAIRMAN MELIUS: We have a number  
4 of things to cover today. I know Dr. Lockey  
5 has to leave early. Does anybody else need to  
6 leave early? Josie, I know about, yes. It  
7 helps in terms of what actions we take later.

8 MEMBER MUNN: But our Chair will  
9 remain with us, right?

10 CHAIRMAN MELIUS: The Chair will,  
11 yes. You haven't heard about the ankle  
12 bracelet?

13 MEMBER MUNN: That comes with the  
14 job.

15 CHAIRMAN MELIUS: LaVon,  
16 Westinghouse Electric.

17 MR. RUTHERFORD: LaVon Rutherford.

18 I am the Special Exposure Cohort Health  
19 Physics Team Leader for the Office of  
20 Compensation Analysis and Support, and I am  
21 here to talk to you about the Westinghouse  
22 Electric Company and the SEC Petition for

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1 that.

2 On December 10th, NIOSH informed a  
3 Westinghouse Electric claimant that we were  
4 unable to do his dose reconstruction, and we  
5 sent that claimant a Form A Petition Form. On  
6 December 18th of 2009, we received that Form A  
7 back as an 83.14 SEC Petition.

8 On December 18th, again we  
9 qualified that Petition for evaluation. On  
10 January 15th of this year, we issued our  
11 Evaluation Report.

12 A little background about  
13 Westinghouse Electric. Westinghouse Electric  
14 is located in Bloomfield, New Jersey. It was  
15 basically the home of the lamp division. It  
16 was an Atomic Weapons Employer from August 13,  
17 1942, which is the beginning of the MED,  
18 through December 31, 1949. They actually had  
19 involvement prior to 1940, that August 13th  
20 date, but that is the official beginning of  
21 the MED.

22 They were involved in the

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1 production of uranium and thorium metal work.

2 They were deeply involved in the process of  
3 preparing the metal in support of the CP-1 and  
4 the atomic bomb.

5 Sources of available information:

6 We looked at Site Profile Technical  
7 Information Bulletins, and we have no Site  
8 Profile associated with Westinghouse Electric  
9 work. We also looked at the Site Research  
10 Database, and we did data captures.

11 I do want to point out that,  
12 because I think there might have been some  
13 confusion on others, there is a detailed data  
14 capture synopsis. It is located at the back  
15 of the Evaluation Report. It lays out the  
16 locations we searched, different parameters in  
17 searching, and what we found at those places.

18 We put that at the back of all of our  
19 Evaluation Reports.

20 One of our biggest sources of  
21 documents that we got was actually from  
22 Westinghouse Electric work from their History

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1 Center, the Senator John Heinz History Center.

2 We also looked at the ADAMS  
3 Database, DOE Legacy Management, all our  
4 standard places. We typically will go to the  
5 Department of Health for the state that the  
6 facility is located. We did. We went to New  
7 Jersey Department of Health, National Archives  
8 Record Centers.

9 We did get some good documentation  
10 from the National Archives as well, Washington  
11 State University, DOE OpenNet, internet  
12 searches, CEDR database, the Hanford DDRS or  
13 Declassified Document Retrieval System,  
14 National Academies Press, and that was it.

15 As of January 27th, you will  
16 notice that we had one claim for this site.  
17 The one claim does fit within the Class  
18 Definition, and dose reconstruction -- we have  
19 not completed any dose reconstruction on that  
20 one claim, and we do not have any internal or  
21 external monitoring data for that.

22 A little background about

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1 Westinghouse. In August 1942, Westinghouse  
2 was contracted by the Manhattan Engineer  
3 District to produce uranium metal at the  
4 Bloomfield, New Jersey, plant. It actually,  
5 back in the 1930s, had experimented with  
6 uranium as using uranium as a filament to  
7 replace tungsten. However, that process took  
8 about -- it took them about four years to  
9 refine the process to produce the uranium, and  
10 in that process they determined that the  
11 actual uranium would melt quicker than the  
12 tungsten. So they did not use it.

13 So they continued to produce the  
14 uranium, but only on small scales per  
15 university applications. They were ultimately  
16 contacted by MED to produce massive  
17 quantities. It started out as a smaller  
18 quantity of roughly 500 pounds which, when you  
19 are producing kilograms to 500 pounds, is a  
20 big difference.

21 They beefed up their scale of  
22 production. They ultimately went from 500

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1 pounds to over one ton per month, and produced  
2 150,000 pounds from the 1942 through 1943  
3 period.

4 This was a unique process they  
5 used. It was uranyl nitrate with a mixture of  
6 potassium fluoride, hydrochloric acid, sucrose  
7 and formic acid that was mixed on trays and  
8 put on top of the building. They used the  
9 ultraviolet light to cause a reaction to occur  
10 to actually produce the potassium uranium  
11 fluoride, which they actually called green  
12 salt, which is not what we would call green  
13 salt today.

14 This production was then -- these  
15 trays, or this green salt was then pumped down  
16 to the basement of the facility. This was in  
17 Plant 7 of the building. It was pumped down  
18 to the basement, and in the basement they did  
19 some filtration to remove the supernate, and  
20 they actually took the green salt at that  
21 point, and they mixed it with a sodium, or  
22 actually a calcium fluoride sodium chloride

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1 mixture, and they used by electrolysis process  
2 and superheated that to separate the uranium  
3 from it.

4           The uranium then was broken away  
5 from the electrodes, and it was centered and  
6 then pressed into buttons. After it was  
7 pressed into buttons, the buttons were put in  
8 and melted to form the uranium melt that was  
9 ultimately shipped to the University of  
10 Chicago for Enrico Fermi's Stagg Field  
11 experiment.

12           In August of 1944 -- again, they  
13 produced the uranium from 1942 through 1943.  
14 In August of 1944, they were actually  
15 contracted by the MED to produce thorium  
16 metal. We have very little information on  
17 this process.

18           I want to bring up another thing.  
19 The work that occurred for the uranium at the  
20 Bloomfield Site recognized that there were no  
21 production facilities built for this uranium  
22 application. This was a lamp division that

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1 was doing work for producing lamps.

2           They, in a matter of months,  
3 pulled together the equipment and the  
4 necessary design application, and you can also  
5 find in the reference documents the actual  
6 procedures that were used for the production  
7 of this metal. They used very crude stuff,  
8 trash cans, wooden trays and so on, in the  
9 production of this process.

10           It is assumed that they used the  
11 same production process to produce the thorium  
12 metal as well, but I have no information on  
13 that and any details on that.

14           This is consistent with that it is  
15 roughly the same time that the Ames Facility  
16 was producing thorium for the MED. We had  
17 indications they produced a total of 200  
18 pounds of thorium metal in the form of bars,  
19 tubes, sheets and wires in 1945.

20           Again, no information could be  
21 found describing the process, and it is not  
22 clear when the thorium processing stopped. We

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1 do have documentation that indicates that  
2 there were thorium inventories on site in  
3 1949.

4           The Westinghouse Site consisted of  
5 11 principal buildings, several smaller  
6 structures, and it was located on 14 acres of  
7 property. It appears most of the work that  
8 took place was on the rooftop and in the  
9 basement of Building 7. There was indication  
10 that there were some laboratory applications  
11 that took off in other places, but no real  
12 definition of that type of work.

13           There is no information concerning  
14 the control of personnel movement or control  
15 of radiologic materials to identify nonexposed  
16 workers. I do know that, based on the  
17 documentation that we have, that the thorium  
18 nitrate feed material was sent to the site.  
19 We do not know who the supplier was of that  
20 thorium nitrate, but it is indication because  
21 when they received it from the vendor, there  
22 are discussions of the testing to ensure that

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1 it was the proper quality that they needed.

2 Internal exposure hazards,  
3 inhalation and ingestion from operations  
4 involving uranium, thorium, and their  
5 respective progeny radionuclides. There is a  
6 little discussion in the reference documents  
7 about that most of the people are aware. Most  
8 everyone is aware of the pyrophoric issues  
9 associated with uranium. It talked about the  
10 uranium fires that they incurred from the  
11 incinerated material and trying to control  
12 that.

13 External exposure hazards: Photon  
14 and beta sources from operations involving  
15 uranium, thorium and their respective progeny.

16 Available internal monitoring  
17 data: We have no internal or external  
18 monitoring data available. We have no air  
19 monitoring data. We have no surface  
20 contamination monitoring data available, and  
21 there is no data available associated with  
22 medical X-rays.

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1           We do have some source-term  
2 information, the total uranium metal produced  
3 of 150,000 pounds. One thing I will say is  
4 you could tell just by the documentation we  
5 read that it was a ramp-up process where they  
6 started, where they were producing a few  
7 hundred pounds, and then they went to 1,000  
8 pounds and more ultimately. So it was an  
9 increase over the months to that 150,000 pound  
10 total that they actually produced.

11           Then we know they had thorium  
12 metal, and we know they produced at least 200  
13 pounds in 1945. We do not know if that  
14 operation continued in '46 and '47.

15           There is insufficient source-term  
16 information and process information to develop  
17 occupational exposure models for uranium and  
18 thorium.

19           We do have a good description of  
20 how the uranium process, the actual chemical  
21 process, of how it worked, but we do not have  
22 the description -- enough description to

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1 actually put together a model using the  
2 source-term information and the process  
3 information that we could come up with a good  
4 exposure model for these workers, nor do we  
5 have a surrogate facility based on this  
6 operation that we could use any of that data  
7 to bound the workers.

8           There are also some pictures that  
9 you can look at in the reference documents  
10 that kind of show you that the workers did --  
11 it was actually the scientists at the time  
12 looking at the uranium metal and how they  
13 handled it. It was not -- they were not  
14 wearing gloves. There was no protective  
15 equipment involved in that.

16           Our internal exposures: We found  
17 that there is insufficient monitoring and  
18 source-term data from which to draw  
19 conclusions regarding potential magnitude of  
20 internal dose from exposures to uranium or  
21 thorium and their progeny.

22           Our external exposures, we again

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1 found that there is insufficient monitoring  
2 and source-term data for us to draw  
3 conclusions regarding the potential magnitude  
4 of the external exposures.

5 We do think we can reconstruct the  
6 medical dose using our standard Technical  
7 Basis Document for that, and we will use any  
8 personal monitoring data that would become  
9 available for completing partial dose  
10 reconstructions in the future.

11 So our feasibility determination  
12 is that, from August 13, 1942 through December  
13 31, 1949, which is the covered period for  
14 Westinghouse, that the internal dose  
15 reconstruction is not feasible, and external  
16 dose reconstruction is not feasible with the  
17 exception of medical X-rays.

18 So our evidence revealed that  
19 workers in the Class may have been  
20 accumulating chronic exposures through intakes  
21 of radionuclides and direct exposures from  
22 radioactive materials. So we find that health

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1 may have been endangered for those workers.

2 Our proposed Class is all AWE  
3 employees who worked at Westinghouse Electric  
4 Corporation, Bloomfield, from August 13, 1942,  
5 through December 31, 1949. That is the  
6 standard language following that.

7 Again, our recommendation is from  
8 August 13, 1942, through December 31, 1949,  
9 and dose reconstruction is not feasible, and  
10 health endangerment is yes. Questions?

11 CHAIRMAN MELIUS: Questions for  
12 LaVon? Paul?

13 MEMBER ZIEMER: Lavon, do we have  
14 an idea of the potential size of this Class,  
15 if it is approved?

16 MR. RUTHERFORD: It is not as  
17 large, if you actually look at -- I think in  
18 there I talk about the site consisted of 11  
19 principal buildings and several smaller  
20 structures on a 14 acre property. I asked the  
21 one claimant that we have, who is actually a  
22 survivor, who is the petitioner, and I

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1       couldn't get a real good number.

2                       I think that you wonder. We only  
3       have one claim for this site. That could be  
4       due to lack of information to those people.  
5       It is also 1942 through 1949. So you would  
6       assume the workforce is probably most  
7       deceased. Their survivors are, obviously,  
8       probably in their sixties time frame, 50-60  
9       time frame, but it may just be outreach, maybe  
10      not enough outreach.

11                     CHAIRMAN MELIUS: Henry?

12                     MEMBER ANDERSON: When was the  
13      initial claim filed? Do you know?

14                     MR. RUTHERFORD: You know, you got  
15      me on that one. When we received the initial  
16      claim for Westinghouse? I can find that out.

17                     MEMBER ANDERSON: No, I am just  
18      curious as to was this one of those legacy  
19      cases that have been around a long time?

20                     MR. RUTHERFORD: Yes, it is. It  
21      is a legacy case that has been around for a  
22      long time. You could have many reasons why it

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1 took so long, but we only had the one claim  
2 for the facility, and so on. Yes, it is one  
3 of the legacy cases.

4 CHAIRMAN MELIUS: Other questions  
5 from Board Members? David Richardson, do you  
6 have any questions?

7 MEMBER RICHARDSON: One question  
8 is: There's an unknown end date for the  
9 contract. So how did you select 1949?

10 MR. RUTHERFORD: The 1949 date was  
11 selected by the Department of Labor. That is  
12 the end of the covered period, and we did not  
13 find any information that would support  
14 extending that covered period that we would  
15 have fed to the Department of Labor. So we  
16 did not pursue an extension of that.

17 MEMBER RICHARDSON: Okay.

18 MR. VON ZEPPELIN: Hello. Can you  
19 hear me?

20 CHAIRMAN MELIUS: Yes, just a  
21 second. We now need to -- if there are no  
22 more questions from the Board Members, we will

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1 hear from the petitioner who, I believe, just  
2 tried to speak.

3 MR. VON ZEPPELIN: Yes. Can you  
4 hear me?

5 CHAIRMAN MELIUS: Yes, we can.

6 MR. VON ZEPPELIN: Okay. You have  
7 the question here. I petitioned this back in  
8 -- and my [identifying information redacted]  
9 and I, I am 66; my [identifying information  
10 redacted] is [identifying information  
11 redacted]. I petitioned this back in July of  
12 2001, and this is going on nine years, and I  
13 have talked to many people in this program  
14 over the years, and I said this case here can  
15 be settled in 15 minutes. I was told in no  
16 uncertain terms to basically stick it up my  
17 rear end, we are not interested in you.

18 I said, I am dealing with a case  
19 that goes back to the 40s, and I was talking  
20 to people that never heard of Manhattan  
21 Project, and World War II was actually history  
22 to them, too, and I am thinking, what is going

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1 on here.

2 I can tell you that the protection  
3 that these people wore, from what I understand  
4 from what my father said and my mother said,  
5 was rubber gloves and an apron, and she said  
6 they were up to their rear ends in the stuff.

7 Do I have to say anything more?

8 CHAIRMAN MELIUS: No, you don't.  
9 Thank you for your comments.

10 MR. VON ZEPPELIN: No, I have some  
11 more here to say. You know, my [identifying  
12 information redacted] and I are not in the  
13 best of health, and I was determined I am  
14 going to outlive this, and I told many people  
15 over the years that I have been dealing with  
16 this. I said, what if both of us pass on  
17 before this case is settled? I said, where  
18 are you going to send the information that  
19 this case goes one way or the other? Who is  
20 going to receive it, if we are both in the  
21 grave?

22 CHAIRMAN MELIUS: Well, all I can

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1 say is I think that the Board will be taking  
2 action, and I think this issue will get  
3 resolved pretty shortly.

4 MR. VON ZEPPELIN: The thing is, I  
5 have heard this going on eight-and-a-half  
6 years now. I have been handed the same thing.

7 I even had my Congressman get involved in  
8 this, and what I got out of him was a form  
9 letter, and that is all I have been getting  
10 over the years.

11 I have been battling this and  
12 battling this and battling this, and I have  
13 come to the point where I want to see action.

14 I don't want to hear talk, and I don't want  
15 to see letters. I got a stack of letters that  
16 go from probably a foot high, and that is all  
17 I have gotten over the years.

18 I told people years and years and  
19 years ago, this case can be settled in 15  
20 minutes. There is no problem here. Listen to  
21 me. But I am the stupid person.

22 CHAIRMAN MELIUS: I believe we

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1 will settle it in the next 15 minutes.

2 MR. VON ZEPPELIN: I hope so.

3 CHAIRMAN MELIUS: This is the  
4 first time the Board, the Advisory Board --  
5 that this has been brought to our attention.  
6 So we will be taking action, I believe, over  
7 the next 15 minutes, as soon as we --

8 MR. VON ZEPPELIN: Well, it is  
9 good news, you know. the thing is, this is  
10 back in the infancy of, basically, dealing  
11 with nuclear energy and nuclear power or  
12 anything else like that, because as you all  
13 know, the atom was only split in '38, and  
14 these people were working with very dangerous  
15 material, no safeguards, no nothing.

16 My mother, after my father died  
17 back in 1967, said he died basically because  
18 of his work during the war, and the doctor who  
19 treated him lastly said -- when he heard his  
20 case history, he said this is definitely a  
21 case of his work during the war, and every  
22 person that has ever heard of this said that.

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1                   So this is what I don't  
2 understand, is why this bureaucracy has taken  
3 this long to finalize this when it is so  
4 simple. Even an idiot like me can understand  
5 it.

6                   CHAIRMAN MELIUS: Thank you. We  
7 have one question from a Board Member. Wanda?

8                   MEMBER MUNN: Not a question. I  
9 just wanted to make a motion.

10                  CHAIRMAN MELIUS: We have one  
11 question for you. Do you have any estimate  
12 about how many people worked at the facility?

13                  MR. VON ZEPPELIN: From what my  
14 mother and my father said, it was a very, very  
15 small number, and the only thing is -- the  
16 problem is the only reason I ever knew about  
17 this is that in the spring of 2001, USA Today  
18 had about three or four main articles on this  
19 program, and they listed all the facilities  
20 that would be included on this, and  
21 Westinghouse Electric was listed.

22                  That is the only reason I ever

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1 knew about the program, and I had to get on  
2 the computer and get all the applications and  
3 everything else to fill them out and send it  
4 in, and then I sent it in to Washington, D.C.

5 Fifteen months later I get a call from  
6 somebody in Jacksonville, Florida, telling me  
7 I sent it to the wrong place. I said, how did  
8 it get to Jacksonville, Florida? She said,  
9 you sent it there. I said, I didn't send it  
10 there; I sent it to Washington, D.C., and this  
11 is when the parade started.

12 CHAIRMAN MELIUS: Well, we  
13 apologize for that, though some of us recall  
14 the USA Today article. I am glad that you  
15 were seeing that.

16 MR. VON ZEPPELIN: Well, that is  
17 the only reason I know about. The thing is,  
18 if you can go back in and check the number of  
19 employees that were there working there by  
20 their Social Security numbers, which probably  
21 you can, and find out. Also, you can find  
22 out, too, is when their death dates occurred,

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1 and I bet you none of them got -- it was  
2 probably in the late 50s or mid- to late-60s  
3 when they all passed away. You can bet your  
4 dollar on that.

5 CHAIRMAN MELIUS: Okay, thank you.

6 We have a motion coming from Wanda?

7 MEMBER MUNN: Yes, you do. I  
8 would like to reassure the claimant that there  
9 are people who are deeply appreciative and  
10 understanding of the work that your father  
11 did.

12 MR. VON ZEPPELIN: Well, I  
13 appreciate that, and thank you very much,  
14 because a lot of people don't understand, and  
15 I have battled it, and I have battled it, and  
16 I have battled it, and they just didn't  
17 understand, and they were just saying that are  
18 you sure of this, are you sure? And I have  
19 been asked for dosimeter readings. I have  
20 been asked for Geiger counter readings. I  
21 have been asked for health reports on him, and  
22 everything else. And I am thinking, dosimeter

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1 readings, Geiger counter readings, and I am  
2 thinking what planet are these people on or  
3 what have they been smoking.

4 MEMBER MUNN: Well, our program  
5 makes an effort to obtain as much specific  
6 information as they possibly can, but that  
7 doesn't change the fact that most of us truly  
8 understand the kinds of work that has had to  
9 be done for the real pioneers of the nuclear  
10 age, and your father was one of those. That  
11 is appreciated. His work and the material  
12 that came from that plant were crucial to the  
13 future of our nation. It is very much  
14 appreciated.

15 I am very pleased to make a motion  
16 that we accept the NIOSH recommendation to  
17 recommend to the Secretary that all Atomic  
18 Weapons Employees who worked at Westinghouse  
19 Electric Company in Bloomfield from August 13,  
20 1942, through December 31, 1949, be added to  
21 the Special Exposure Cohort.

22 MEMBER CLAWSON: I second.

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1                   CHAIRMAN MELIUS:       Second from  
2 Brad. Any further discussion among the Board  
3 Members? If not, Ted?

4                   MEMBER GRIFFON:   Well, I think I  
5 am just a little uneasy still on the overall  
6 number of employee issue. I think yesterday  
7 we had a lengthy discussion about that with  
8 the GE facility, and I appreciate the  
9 statement by the petitioner that there are  
10 probably only a few people involved in this  
11 operation, but it was a 14-acre site with 11  
12 facilities. I can't imagine there were 10  
13 people in these 14 buildings.

14                  MR. VON ZEPPELIN:   No, no, wait.  
15 Wait, wait, wait, wait. You are talking about  
16 one building here. Now that is all they  
17 worked on, is one building. It was not a 14-  
18 acre project. It was a very -- from what my  
19 mother told me and my father told me, this was  
20 Top Secret. Nobody knew about it. Nobody was  
21 supposed to know about it, only people -- and  
22 they probably didn't know the whole story of

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1 it. They only had the need to know.

2 It was not what you call a big  
3 facility like you have at these other plants  
4 today that were during the Cold War. This was  
5 very small. It was making especially one  
6 project for basically a small number of bombs.

7 Now you would have to go back into  
8 World War II mindset and what the project was.

9 This was not a Cold War project. Do you  
10 listen to me? Do you hear what I'm saying?

11 MEMBER MUNN: We certainly do.

12 MR. VON ZEPPELIN: I'm glad now,  
13 because I don't want to go into this again and  
14 try to educate people on what this project  
15 was. I've had it over the years.

16 CHAIRMAN MELIUS: LaVon?

17 MR. RUTHERFORD: I would like to  
18 address Mark's comment. I think this is  
19 totally different than GE Evandale. First of  
20 all, this is 1942 through 1949. It is not  
21 1961 to 1970.

22 MR. VON ZEPPELIN: That is

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1 correct.

2 MR. RUTHERFORD: It is a site that  
3 is one-tenth, or less than that, the size of  
4 GE Evandale. The magnitude of the workforce  
5 is not even near, and the fact of the matter  
6 is this is a consistent application for what  
7 we have done at Westinghouse Atomic Power  
8 Development this same time period, Standard  
9 Oil at the same time period, Metallurgical Lab  
10 the same time period.

11 These are all those early 1942  
12 period. We do not have data. They were  
13 making this stuff. They were mixing it on the  
14 roof of the building. We have no application  
15 of any environmental approach that we could  
16 possibly use for that.

17 So my point is it is definitely  
18 not comparable from a GE perspective.

19 MR VON ZEPPELIN: Okay. We got  
20 that point across now, I hope. I don't want  
21 to hear another question that is just so  
22 stupid, it blows my mind.

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1 CHAIRMAN MELIUS: Okay. Any  
2 further questions from Board Members? If not,  
3 Ted, could you do the vote?

4 MR. KATZ: Dr. Ziemer?

5 MEMBER ZIEMER: Yes.

6 MR. KATZ: Mr. Schofield?

7 MEMBER SCHOFIELD: Yes.

8 MR. KATZ: Dr. Roessler?

9 MEMBER ROESSLER: Yes.

10 MR. KATZ: Dr. Richardson?

11 MEMBER RICHARDSON: Yes.

12 MR. KATZ: Mr. Presley?

13 MEMBER PRESLEY: Yes.

14 MR. KATZ: Dr. Poston?

15 MEMBER POSTON: Yes.

16 MR. KATZ: Ms. Munn?

17 MEMBER MUNN: Yes.

18 MR. KATZ: Dr. Melius?

19 CHAIRMAN MELIUS: Yes.

20 MR. KATZ: Dr. Lockey?

21 MEMBER LOCKEY: Yes.

22 MR. KATZ: Dr. Lemen?

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1 MEMBER LEMEN: Yes.

2 MR. KATZ: Mr. Griffon?

3 MEMBER GRIFFON: Yes.

4 MR. KATZ: Mr. Gibson? Oh, I am  
5 sorry. He is absent, and we will have to, as  
6 our procedures are, collect his vote either  
7 when he joins us later this afternoon or  
8 afterwards.

9 Dr. Field?

10 MEMBER FIELD: Yes.

11 MR. KATZ: Mr. Clawson?

12 MEMBER CLAWSON: Yes.

13 MR. KATZ: Ms. Beach?

14 MEMBER BEACH: Yes.

15 MR. KATZ: Dr. Anderson?

16 MEMBER ANDERSON: Yes.

17 MR. KATZ: Did I call everyone?

18 So then it is unanimous, with one absent  
19 Member at this point, 15 in favor.

20 CHAIRMAN MELIUS: Okay. Very  
21 good. The petition is approved. We will move  
22 forward with that. Thank you for your

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1 participation, sir.

2 The next item is SEC Petition  
3 Status Update, LaVon.

4 MR. RUTHERFORD: The purpose of  
5 this presentation -- we typically do this  
6 presentation at every Board meeting to provide  
7 the Board an update of existing petitions --

8 MR. KATZ: LaVon, could you raise  
9 your lavalierere? Thanks.

10 MR. RUTHERFORD: It would help if  
11 I turn it on.

12 MR. KATZ: Turn it on. That would  
13 be good, too. Thanks.

14 MR. RUTHERFORD: Okay, does that  
15 help?

16 Again, we do this presentation at  
17 every Board meeting to provide an update to  
18 the Board, qualified SEC Petitions that we are  
19 currently in the evaluation phase. We also  
20 discuss potential 83.14s that we have.

21 We do this -- this gives the Board  
22 enough information to support future Work

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1 Group efforts as well as Advisory Board  
2 meetings.

3 As of January 25th, we had  
4 received 163 petitions. I can say, as of  
5 February 10th, which was yesterday, we had 165  
6 petitions. I didn't look at it this morning  
7 to give you a true value today.

8 We have seven petitions as of  
9 January 25th during the qualification phase,  
10 92 petitions that have qualified. Of those 92  
11 petitions, four are in the evaluation process,  
12 and 88 had completed the evaluation. We had  
13 64 petitions that did not qualify.

14 Currently, these petitions are in  
15 the evaluation phase. We have Weldon Spring  
16 Plant. We did have a little difficulty in the  
17 qualification process of this petition. We  
18 had hoped to actually have this Evaluation  
19 Report completed late in January/early  
20 February.

21 We had not anticipated that we  
22 would present it, though. Although we did --

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1 we ended up pushing back the completion of the  
2 evaluation to March of 2010, we are trying to  
3 address a couple of the surrogate data issues  
4 in the evaluation.

5 Hooker Electrochemical, we  
6 anticipate completing this month. The St.  
7 Louis Airport Storage Site. Again, we are on  
8 schedule for completion in March 2010. All  
9 three, Weldon Spring, Hooker, and the SLAPS  
10 Site, we anticipate presenting at the May  
11 Board meeting.

12 Linde Ceramics, those you may  
13 remember. We actually received a petition.  
14 We had actually received a petition prior to  
15 for this same time period, and were unable to  
16 qualify that petition.

17 We have recently received another  
18 petition, and through some additional work, we  
19 actually have qualified that petition, and  
20 that petition for the Linde Ceramics Plant,  
21 and we will evaluate the rest of the covered  
22 period of 1947 through 1953. The prior years

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1 to that are already part of the SEC. We were  
2 afraid Dr. Roessler's group was going to run  
3 out of work.

4 Petitions with the Advisory Board  
5 at this time. Chapman Valve, we did discuss  
6 yesterday. I believe that the Board is going  
7 to allow the new Board Members additional time  
8 to review the documentation in hopes that we  
9 can resolve that by the May Board meeting.

10 Blockson Chemical is in the same  
11 situation as well.

12 Feed Materials Production Center.  
13 There continues to be some work NIOSH is  
14 working on, and NIOSH, SC&A, and the Work  
15 Group are working to resolve the final issues  
16 associated with that site.

17 Bethlehem Steel. That is with the  
18 Surrogate Data Work Group, and I believe Dr.  
19 Melius will correct me if I am wrong, but I  
20 think there is a Work Group coming up very  
21 shortly prior to the May meeting.

22 Hanford. This petition is -- we

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1 recently did an 83.14 to add an additional  
2 Class to Hanford. Since we have done that,  
3 the Work Group, SC&A, and NIOSH have been  
4 working to identify the remaining issues and  
5 work through those issues associated with the  
6 Hanford Site.

7 The Nevada Test Site. We issued a  
8 revised Evaluation Report. Dr. Neton  
9 presented yesterday, and the Board concurred  
10 with recommending a Class for the Nevada Test  
11 Site. So we should be able to move that one  
12 to closure.

13 The Mound Plant. Ms. Beach's Work  
14 Group has worked to resolve the issues  
15 associated with that, and based on the  
16 discussions I have had with Dr. Ulsh, I  
17 believe we are hoping to have that one closed  
18 out, or hoping to come to some resolution by  
19 the May meeting, if possible. I have to put  
20 those caveats on that.

21 Texas City Chemical. We have  
22 revised the Evaluation Report. It is not

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1 issued yet. There are some internal  
2 discussions that are still proceeding  
3 associated with the surrogate data and radon  
4 model.

5 Area IV Santa Susana. This Work  
6 Group continues to evaluate the issues  
7 associated with that petition. We did just  
8 add additional years up through 1964. We  
9 presented that evaluation at this Board  
10 meeting, and the Board concurred with that  
11 recommendation. However, continued work on  
12 the petition through '65 as well as Site  
13 Profile issues continue.

14 Dow Chemical. We recently had a  
15 Work Group meeting, Dr. Melius' SEC Work  
16 Group. We discussed the remaining findings  
17 from SC&A on that, and SC&A has been tasked to  
18 go back and summarize the surrogate data use  
19 that was identified in our approach in the  
20 Battelle 6000 Appendix that we have for this  
21 site.

22 Pantex. Again, research and

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1 discussion continues on this site between  
2 SC&A, the Work Group, and NIOSH. I believe  
3 NIOSH provided a response to SC&A. They did  
4 not? It has not been released yet. I  
5 apologize. Brad is shaking his head, and I  
6 corrected myself there. So, hopefully, we  
7 will get that to the Work Group soon, so we  
8 can start getting a Work Group set up for that  
9 -- meeting set up for that.

10 Savannah River Site. There was a  
11 recent Work Group meeting on the Savannah  
12 River Site, discussed issues associated with  
13 the Evaluation Report and petition, and NIOSH  
14 continues to work through a couple of issues,  
15 and that Work Group will continue its research  
16 and discussion.

17 General Steel Industries is with  
18 the Battelle 6000 Work Group headed by Dr.  
19 Ziemer. As Dr. Ziemer mentioned yesterday,  
20 there are a number of sites that that group  
21 has been tasked with. Research and discussion  
22 continues on that.

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1                   LANL.     Mark Griffon's Work Group  
2     is continuing work on that one as well.

3                   Linde     Ceramics     Plant.     Dr.  
4     Roessler's     Work     Group     has     recently     met,  
5     actually, I believe, once in person and once  
6     on the phone, and continues to work through a  
7     couple of issues that were described by the  
8     petitioner, and we hope to be able to bring  
9     that one to resolution soon.

10                   Bliss and Laughlin Steel is with  
11     the Battelle 6000 Work Group as well.

12                   Electro-Met,     again     with     the  
13     Battelle 6000 Work Group.

14                   United Nuclear.     I presented that  
15     Evaluation Report yesterday.     I believe Dr.  
16     Melius is going to allow the petitioner a  
17     little more time until the May Board meeting  
18     to do their presentation on that.

19                   University of Rochester.     This one  
20     is one we presented at the Port Jefferson  
21     meeting.     Dr. Melius and Dr. Lockey were  
22     concerned that we had possibly not done

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1 complete due diligence on this, and Dr. Melius  
2 went back to the State of New York and  
3 questioned to see if they could come up with  
4 documentation on this University of Rochester  
5 Site or identify where it may have went.

6           Actually, the University -- or the  
7 State of New York was -- Dr. Melius didn't  
8 come up with anything, but Dr. Lockey did  
9 identify a person that indicated that the  
10 records may have been sent to the Oak Ridge  
11 National Lab or the Hanford Site.

12           We had searched the Oak Ridge  
13 National Lab already. However, we had not  
14 done a detailed search of the Hanford records.

15           We did. In December we sent a -- we asked  
16 the Hanford Site to do a preliminary search,  
17 and their preliminary search showed positive  
18 hits. We sent a formal letter requesting them  
19 to search their records, and they identified a  
20 number of documents.

21           They sent to us a list of 150  
22 documents, I believe. If I am correct, it is

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1 around 150 documents. They sent a list to us  
2 just recently. We are going through that list  
3 right now to determine what records we want,  
4 and they are going to send those records to  
5 us.

6 In the meantime, we had actually -  
7 - Dr. Glover in some of his work had  
8 identified a different -- a search technique  
9 for the nearer College Park in Maryland for  
10 records, and additional searches there have  
11 identified that there may be additional  
12 records as well. We have already gone to  
13 capture those records because there's also a  
14 number of other sites that records were  
15 identified.

16 We anticipate that we will be able  
17 to get those records, review those records,  
18 and have a determination of any change at all  
19 to the feasibility for the May meeting.

20 Brookhaven National Lab. The Work  
21 Group has been established for that. However,  
22 it has not met yet. They are, I believe,

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1 waiting on SC&A's review of the post-1980  
2 period.

3 Canoga Avenue Facility. We did  
4 present that evaluation at this Board meeting.

5 However, due to Class Definition issues, we  
6 have been sent back to do a little additional  
7 homework, and we are going to do that. We  
8 plan to provide an update to the Board at the  
9 Board conference call, based on what we found  
10 and, hopefully, we can get that resolved  
11 quickly.

12 Westinghouse Electric Corp., I  
13 just presented, and the Board concurred with  
14 that recommendation to add a Class.

15 Lawrence Livermore National Lab we  
16 presented yesterday, and the Board concurred  
17 with the recommendation to add a Class from  
18 January 1, 1950 through December 31, 1973,  
19 which was basically a modification of the  
20 existing Class.

21 Lawrence Berkeley National Lab.  
22 We presented the -- it was yesterday, I

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1 believe, and the Board concurred with our  
2 recommendation to add the Class there as well.

3           General Electric Company. We did  
4 present that Evaluation Report yesterday.  
5 However, the Board has requested that we do  
6 additional work. We are going to go back and  
7 do some interviews and do some additional, if  
8 possible, data capture searches and,  
9 hopefully, come up with a better -- either a  
10 different Class Definition or a complete  
11 argument based on our current Class  
12 Definition.

13           During the last Board meeting in  
14 October, there were a couple of questions that  
15 were brought up by the Advisory Board. One is  
16 what is NIOSH's process for ensuring that all  
17 claims have been appropriately included in SEC  
18 Class, and has NIOSH changed the way it  
19 defines classes over time?

20           I wanted to talk -- when we go  
21 through the process for identifying potential  
22 SEC claims. We will make an initial

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1 determination of an SEC Class after we  
2 determine there is an infeasibility.

3           When we do that, during an  
4 evaluation process we determine there is an  
5 infeasibility. We will draft a Class  
6 Definition. We will send that Class  
7 Definition to the Department of Labor, and we  
8 will ask the Department of Labor to determine  
9 if they can administer the Class.

10           Once the Department of Labor  
11 responds, if they respond that they can  
12 administer the Class as written, we proceed  
13 with the final evaluation. Then we will  
14 present that final evaluation to the Advisory  
15 Board, and the Advisory Board may concur, may  
16 request additional work.

17           Once the final designation occurs,  
18 we identify those claims that are affected by  
19 that Class and send those claims back to the  
20 Department of Labor. The Department of Labor  
21 then evaluates whether the Class -- or whether  
22 the claims fit within the Class or not. If

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1 they return claims to us, then we would assume  
2 -- we assume that they have evaluated them  
3 against the Class.

4           Ultimately, during that process,  
5 we revise our Site Profiles to indicate the  
6 current final designation and feasibility  
7 determinations that we had identified in the  
8 Evaluation Report.

9           So we basically revise the Site  
10 Profiles to ensure that they identify any  
11 infeasibilities that we identified in our  
12 Evaluation Report to ensure that dose  
13 reconstruction does not attempt to do those  
14 infeasibilities.

15           So once we start redoing claims --  
16 so we are doing the partial dose  
17 reconstructions now on non-presumptive claims  
18 -- those reconstructions will come through,  
19 and the dose reconstructor will review -- the  
20 NIOSH dose reconstructor, as well as our  
21 contractor, will review those dose  
22 reconstructions against that revised Site

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1 Profile.

2           If during that review the dose  
3 reconstructor identified the claims that they  
4 feel should have been evaluated or possibly  
5 have been in the SEC, they will review the  
6 claim file to determine if an SEC  
7 determination was made from the Department of  
8 Labor. If they go through that and they see  
9 that there is a SEC determination, they can  
10 determine from that determination why they  
11 have been excluded from the Class.

12           If they still -- or if that does  
13 not exist within the claim, they will  
14 correspond with the Department of Labor to  
15 determine why a claim was denied.

16           If in the process we determine  
17 that there may have been -- that claims were  
18 denied that ultimately we can't do dose  
19 reconstruction from for the same reasons that  
20 we had originally identified a Class, we will  
21 initiate an 83.14 to basically modify that  
22 Class.

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1                   If you look at what we did with  
2 Y-12, here is a prime example. Y-12 was  
3 defined as a Class. It was individuals  
4 involved with uranium enrichment and other  
5 radioactive material or other radioactive  
6 areas or something. I can't remember,  
7 something like that.

8                   We had defined it in a manner  
9 because we had felt that the site -- there was  
10 radioactive material all through the site,  
11 which would have included everyone. So we  
12 defined it that way. However, the actual  
13 interpretation of that was different than what  
14 we had intended.

15                  So we started receiving claims for  
16 individuals that we felt should have been  
17 included in a Class. Ultimately, we ended up,  
18 instead of what -- we ended up doing an 83.14  
19 to modify that Class to change it to all  
20 employees, which is what it is now, from '42  
21 to '47.

22                  So the process is in place to

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1 ensure that claims that go through the  
2 process, if they come back to us and we feel  
3 that they were missed, we have ways to contact  
4 the Department of Labor to review why the  
5 claim was denied; and if, in that process, we  
6 determine that they have denied a claim that  
7 we can't do dose reconstruction, we can  
8 initiate an 83.14 to resolve that.

9 Now I want to also say, now we  
10 identified that with Y-12. We have done that  
11 with Y-12 earlier. We have also done it with  
12 Lawrence Livermore as well. So it has not  
13 happened a lot, but it has happened.

14 I also want to talk about defining  
15 SEC Classes. There has been a lot of  
16 discussion on that as well, and I think they  
17 kind of go hand in hand somewhat.

18 After going back from the Board  
19 meeting, we perform -- we had a health  
20 physicist, who is not typically involved with  
21 the SEC process, perform an internal  
22 assessment. Basically, what he was doing was

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1 he went back, and he looked at how we defined  
2 Classes from the very first one at  
3 Mallinckrodt in Iowa to how we are defining  
4 Classes today, and what criteria were we using  
5 or what boundaries were we using to do that.

6 From that assessment, he did find  
7 there had been changes, as every Board Member  
8 knows. Some of the early Class Definitions  
9 went from defining divisions to defining  
10 buildings, specific buildings and specific  
11 areas, should have been monitored, and to all  
12 employees, which we use a lot today.

13 So he actually went back. He went  
14 through all these, and he laid it out. The  
15 findings are, yes, we have changed over time.

16 So our path forward for that is we want to go  
17 now, and we are going to go through each one  
18 of the Classes we have added since the  
19 beginning.

20 We are going to look at the  
21 technical reasons that were used for defining  
22 that Class, from access control, environmental

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1 controls, all the different things that we use  
2 in defining that Class, and we want to look at  
3 the language that we used and determine if the  
4 Class should be modified to be consistent with  
5 how we would define a Class today.

6 If that occurs -- when we do that  
7 process, if that occurs, we would do an 83.14  
8 to modify the Class. The difficulty with that  
9 will be there has to be claims that are  
10 actually being missed in order for that to  
11 happen, meaning that we would have to have  
12 claims that Department of Labor is denying  
13 that we would feel would fit into that  
14 modified Class.

15 That's it.

16 CHAIRMAN MELIUS: That's it?  
17 Okay. Do we have questions for LaVon? Dr.  
18 Lockey and then Dr. Lemen.

19 MEMBER LOCKEY: Well, thanks for  
20 the presentation. I have two points, because  
21 I do have to leave in order to get a flight  
22 out.

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1           One is it is concerning about the  
2 due diligence in relationship to looking for  
3 records. Do you have -- is there a systematic  
4 approach you take in that, and do you  
5 reevaluate that approach on an ongoing basis?

6           MR. RUTHERFORD: Yes.

7           MEMBER LOCKEY: Why would these  
8 records for Rochester be at Hanford and not at  
9 Oak Ridge, and why would you have searched  
10 Hanford?

11          MR. RUTHERFORD: Well, you know,  
12 and we do do a general search of Hanford, the  
13 DDR System, but a detailed search of every  
14 record -- of all the records, electronic  
15 databases and records, we don't do at every  
16 site.

17          Now the lessons learned from that  
18 -- and you know, it is like anything, any  
19 process. If you look at what we searched at  
20 the beginning of this program to what we  
21 search now, it is huge, completely different,  
22 because we have learned a lot of things, that

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1 Hanford is a great repository for a lot of the  
2 records of all the sites.

3 So what I would say is that the  
4 University of Rochester issue is kind of a  
5 lesson learned, that, okay, we need to do more  
6 of a formal search at Hanford for records  
7 associated with these other sites.

8 DR. GLOVER: LaVon, I just want to  
9 make -- this is a special circumstance in that  
10 it was Newell Stannard's collection.

11 MR. RUTHERFORD: I'm sorry?

12 DR. GLOVER: Newell Stannard wrote  
13 on radioactivity and health, and he went from  
14 Rochester to Hanford. So it is a special  
15 collection of about 150 boxes of information  
16 related to everything he gathered from the  
17 beginning of time, but since he was at  
18 Rochester, he also took the original reports  
19 with him.

20 So it is a very unique  
21 circumstance why this record collection  
22 exists.

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1                   MEMBER LOCKEY:     Someday I would  
2     like to see maybe just a short presentation  
3     about how you go about the process of  
4     searching, retrieving records.

5                   MR. RUTHERFORD:   Should I add that  
6     onto my SEC presentation next meeting?

7                   MEMBER LOCKEY:   Well, no, I don't  
8     think we need to see it every week, but I  
9     would like to --

10                  MR. RUTHERFORD:   No.   I mean just  
11     as a one-time.

12                  CHAIRMAN MELIUS:   As a one-time,  
13     it is something we should consider for an  
14     agenda item.

15                  I am just a little confused on  
16     Rochester still.  I thought you mentioned or  
17     implied that there was another set of records  
18     someplace.

19                  MR. RUTHERFORD:   Yes.

20                  CHAIRMAN MELIUS:   That one, I am  
21     also --

22                  MR.     RUTHERFORD:         Sam     could

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1 actually talk about the search tool that was  
2 identified, but it is National Archives  
3 records at College Park, I believe, and they  
4 had identified -- it was another search tool  
5 that was used that actually identified records  
6 that had been missed in the first search.

7 CHAIRMAN MELIUS: Maybe then as  
8 part of the presentation -- Sam, do you want  
9 to add anything to that?

10 DR. GLOVER: It was a -- DOE  
11 captured certain historical records that they  
12 had essentially -- we thought they were in one  
13 location, and they had been subsequently  
14 moved. So you had to pull a different thread,  
15 and it happened that I came across a different  
16 finding, a large collection of these early AWE  
17 facility records, but they had been moved. So  
18 it was --

19 CHAIRMAN MELIUS: I think we  
20 understand the difficulty, but as we are  
21 talking about SEC Class Definitions, I think  
22 we know that there will always be this stuff

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1 out there that is going to be found 10 years  
2 later, but I think at least my concern is that  
3 someday we are going to come across -- we will  
4 have granted an SEC, and then we are going to  
5 find all of the records for that SEC.

6 I don't know if we have a  
7 procedure for rescinding an SEC, but it is  
8 just a difficult circumstance. Hopefully, we  
9 don't have to confront it, but I think it is  
10 as thorough as it can be, but we understand  
11 that takes time and money to do. So there has  
12 to be some level of reasonableness on it.

13 I think it would be helpful for  
14 the Board maybe at one of the next few  
15 meetings. Maybe we can even do it on our next  
16 conference call, the kind of thing that we  
17 could do for that. Dr. Lemen?

18 MEMBER LEMEN: Did you have  
19 something else, Jim? You had you had two  
20 points.

21 MEMBER LOCKEY: I have one other,  
22 and this goes around the General Electric

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1 issue in regard to how a Class is defined in a  
2 large industrial complex where part of the  
3 process at the complex is devoted to these  
4 types of production issues, but the rest of it  
5 is not.

6 It would be labor intensive, but  
7 some type of archeological reconstruction of  
8 the site would at least give us some  
9 information as to what kind of issues we are  
10 dealing with, with a large workforce where  
11 perhaps only a small percentage of the  
12 workforce is involved with this type of  
13 nuclear production issue. General Electric  
14 would be a good example of that.

15 How do we define what this plant  
16 looks like? What were they making over what  
17 time frame, and how many buildings? Just an  
18 education so at least we have something we can  
19 rely on to say we can't determine it or  
20 perhaps we can determine boundaries in  
21 relationship to Class limitation.

22 MR. RUTHERFORD: I have no problem

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1 with that and agree with that. I think the  
2 biggest thing, from my perspective, is  
3 understanding where that boundary -- where, at  
4 what level of information or what definition  
5 is the Board going to be acceptable of? I  
6 believe that, in order to reduce -- to define  
7 any of these Classes in a more smaller  
8 geographical area, in some cases it is going  
9 to be a subjective determination based on  
10 information that you hear from interviews and  
11 such.

12 MEMBER LOCKEY: I think the Board  
13 is capable of making those decisions, but we  
14 have to make them with at least some  
15 foundation, and right now we don't have  
16 foundations for certain of these sites.

17 CHAIRMAN MELIUS: Dr. Lemen?

18 MEMBER LEMEN: I would like to ask  
19 if NIOSH in their future presentations on  
20 their tables, under the SEC Evaluation  
21 Reports, if it would be possible to add two  
22 things.

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1           First, under the ER completed,  
2           could you add when the petition was initiated?

3           MR. RUTHERFORD: I certainly can.

4           MEMBER LEMEN: And secondly, under  
5           the facility and Class evaluation, could you  
6           give us an estimate, if you have it, of the  
7           number of persons that would be covered under  
8           those classifications? Is that possible? Do  
9           you have estimates like we --

10          MR. RUTHERFORD: Yes.

11          MEMBER LEMEN: I am going to what  
12          Jim Lockey said, and that is yesterday when we  
13          talked about General Electric and others, I  
14          don't think that NIOSH understood the size of  
15          the population that they were looking at, and  
16          to include all 10,000 or 12,000 people -- you  
17          know, the Board could pass that, but not  
18          realize the size of it. Is there some way you  
19          can estimate size and put that in your report  
20          next time?

21          MR. RUTHERFORD: Yes, we can  
22          estimate the workforce, the size of the

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1 workforce. I mean, part of our evaluation  
2 process is to try to do that.

3 I will say, though, that NIOSH was  
4 very familiar with the size of GE Evandale,  
5 considering the fact that most of us drive by  
6 it or have been by it a number of times. So I  
7 don't think that was not recognized, and we  
8 have discussed that.

9 MEMBER LEMEN: Thank you.

10 CHAIRMAN MELIUS: Dr. Ziemer?

11 MEMBER ZIEMER: I have almost  
12 forgotten what I was going to ask, but I do  
13 have a follow-up.

14 I like the concept that Dr. Lockey  
15 has suggested where, on a large site like GE,  
16 it may be possible for us; and this wouldn't  
17 be completely subjective, but it would require  
18 judgments, to think about the likelihood that  
19 a person on another part of the site could  
20 have roamed into the area unchallenged, and  
21 maybe narrow down such a site.

22 Then the burden would be on

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1 someone outside some parameter to make a case  
2 that, yes, I went there for lunch every day,  
3 because my good buddy worked there, or  
4 something like that. But it seems to me, we  
5 can make some judgments, if necessary, that  
6 would put some level of restriction on some of  
7 these.

8           The original thing I was going to  
9 talk about now -- I figured if I talked long  
10 enough, it would come back to me. I do  
11 commend what you are proposing, to go back and  
12 look at how the language has evolved over  
13 time, but can you give us some idea of when  
14 that process will be ready? This isn't going  
15 to take a whole lot of time. It sounds like  
16 you are underway already.

17           MR. RUTHERFORD: Yes.

18           MEMBER ZIEMER: So are you going  
19 to be reporting back fairly soon on that?

20           MR. RUTHERFORD: Yes. I can  
21 probably give a better estimate of completion  
22 at the Board conference call, and with any --

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1 in my mind, I can sit here and think, oh, we  
2 can do that and be ready by May, but then I  
3 start to actually look at resources and  
4 everything else, and recognizing all the other  
5 things everybody will remind me that they have  
6 to do. But I think I could definitely give  
7 you a good finish date at the Board conference  
8 call.

9 CHAIRMAN MELIUS: We will hold you  
10 to that, by May, but -- Henry?

11 MEMBER ANDERSON: I just wanted to  
12 raise the issue. Is there any difference in  
13 the efforts to identify workers who were there  
14 or I think, like at the GE Plant, there has  
15 got to be, of all of those people, far more  
16 than you maybe talked to that could give us at  
17 least a subjective feel for did people move  
18 around the site or what types of people did.

19 Certainly, if you were a  
20 maintenance worker, you might have. So those  
21 kind of things, and when you kind of make a  
22 determination that you can't do dose

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1 reconstruction, things seem to move pretty  
2 quickly, and I don't know if you give the same  
3 amount of emphasis to going and trying to  
4 track down and talk to people when you have  
5 done a data search and it is not there, and  
6 then it seems we may move ahead very quickly  
7 when, in fact, describing how people  
8 interacted on the site might be very helpful  
9 in the Class Definition, once you have made  
10 that --

11 MR. RUTHERFORD: Dr. Melius has  
12 actually made that point on a few occasions.  
13 You know, again -- and we will definitely move  
14 in that direction in the future, and we will  
15 work to make sure that we get additional  
16 interviews.

17 Up to this point, we have kind of  
18 looked at that the bar was up here and  
19 reducing the Class, meaning that we needed to  
20 have the data, the actual supporting  
21 environmental monitoring data and other  
22 information, that we could quantitatively

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1 ensure that we could bound exposures for those  
2 people outside.

3 Now just in the Board's discussion  
4 that there may be a little movement in that, I  
5 think there is definitely some -- there would  
6 be some added value in going back and doing a  
7 lot more work with our worker interviews.

8 CHAIRMAN MELIUS: Can I just  
9 follow up a little bit on that, on some  
10 questions to what Dr. Ziemer is saying. I  
11 think it was the point Brad made yesterday  
12 also when we were talking about General  
13 Electric, is that I think one of the concerns  
14 of the Board is that, okay, you are sort of  
15 broadening your definitions for the major  
16 sites where there is a lot of activity going  
17 on and a lot of workers who routinely would  
18 have exposures of some sort.

19 Now that may be balanced by  
20 controls on access and sort of also the nature  
21 of the facility and what it is doing. Then on  
22 the other hand, we have these AWE sites, these

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1 older sites where there is very little  
2 information, which is the problem, but at the  
3 same time, I think there is a feeling at these  
4 larger manufacturing facilities that there is  
5 relatively less probability that a person on  
6 that site would have significant exposures,  
7 loosely defined.

8 I think that is what we are sort  
9 of wrestling with and trying to come up with a  
10 right balance so that we are being equitable  
11 in terms of how we are treating people at  
12 these different sites.

13 Back to the SEC Class Definition  
14 issues, my recollection is that way back when  
15 we started the program, originally -- we had  
16 discussions on this and disagreements, I think  
17 -- we had to redo a Class or so. I can't  
18 remember what the circumstances were, but  
19 originally it was that the Department of Labor  
20 would show up at the meetings, and that would  
21 be the first time they would see the report,  
22 basically when it was presented for the Class

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1 Definition.

2           So there was some -- we tried to  
3 work out some problems there. So then you  
4 started the process of sharing the information  
5 with the Department of Labor. I think, from  
6 Department of Labor's side, they are trying to  
7 think how can they practically process that  
8 Class Definition, make that operational, given  
9 what information they have and the natures of  
10 the claims coming in to them.

11           Then, clearly, they don't have the  
12 same access or people with access to all the  
13 information that NIOSH may have, and they may  
14 need other types of information that is  
15 useful, clearly, evidence a person was  
16 employed there. So personnel records or at  
17 least records that people worked at these  
18 sites are more critical to them.

19           I just would think that it would  
20 help us if we also maybe had a better  
21 understanding of how the Department of Labor  
22 currently implements an SEC and how they get

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1 instructions out.

2 We have done that occasionally  
3 with other -- some of the Classes in terms of  
4 their instructions on how to do that, but I  
5 think some sort of overview from them and  
6 update, because if we are going to change how  
7 we do SEC Class Definitions, we should do it  
8 with input from Department of Labor also on  
9 that.

10 I think, clearly, something like  
11 the GE -- the proposed GE Class Definition is  
12 the most easy one to implement, just did you  
13 work there and so forth. Then it should have  
14 been monitored, clearly, is another high level  
15 complication for them in terms of how they  
16 make that work, or in a building and so forth.

17 So I think we need to find some  
18 way that is appropriate in terms of who is  
19 getting covered and, at the same time, is  
20 practical to implement. So I would hope we  
21 would be able to do that with input and  
22 involvement from the Department of Labor also.

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1                   So, Jeff, if you could think about  
2                   that also.

3                   David Richardson, do you have any  
4                   questions? Oh, sorry, Regina first.

5                   MS. CANO:       Dr. Melius, I just  
6                   wanted to add, I think it is also helpful if  
7                   this information is shared with the site as  
8                   well, because they can actually let you know  
9                   how difficult it may be to put somebody on  
10                  site or find records for those individuals.

11                  So we have come into that problem  
12                  in the past. So I share that with NIOSH as  
13                  well as Department of Labor when they are  
14                  defining the Class.

15                  CHAIRMAN MELIUS:     I think that  
16                  would be appropriate also. I don't believe  
17                  that -- I think one of the difficulties we  
18                  have when we are defining a Class is the  
19                  nature -- most of the records at the site are  
20                  things that's being developed by NIOSH. You  
21                  are looking for exposure records, and you are  
22                  not looking at personnel records or what is

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1 available at the site for confirming  
2 employment at DOE, nor should you be.

3 Most of the time, you don't need  
4 it, but that is something that, I think,  
5 Department of Labor needs to do. Clearly, it  
6 puts a burden on the sites and on Department  
7 of Energy, and they may know other sources of  
8 information that would make it facilitate that  
9 process.

10 I know there are a lot of  
11 difficulties with many of the -- confirming  
12 subcontractors when people worked there and so  
13 forth. So maybe we can work out a process  
14 among the three agencies that would make this  
15 all work better. That is a good suggestion.  
16 Thanks. Sorry, David Richardson, do you have  
17 any questions for LaVon?

18 MEMBER RICHARDSON: No, I don't  
19 think so. I thought that the story of how  
20 Rochester records ended up at Hanford was  
21 really interesting, and it made me think about  
22 whether there was -- you talked about one set

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1 of lessons learned about looking at Hanford,  
2 but then it was pointed out that this was --  
3 you know, it's got a particular narrative  
4 thread to it, that somebody moved from one  
5 institution to another one, and then those  
6 records were archived there.

7 I know from my own experience that  
8 that is often the case, that people will end  
9 up leaving their records at an institution or  
10 at a nearby library or archive where they  
11 stop.

12 So I was trying to think if there  
13 was a way to exploit that more, and have you  
14 thought about that?

15 MR. RUTHERFORD: No, I don't know.

16 We put together -- typically, when we go to  
17 these sites like Hanford with large electronic  
18 databases, we put in a number of search terms.

19 We wouldn't just put in -- we may not just  
20 put in University of Rochester. We may  
21 actually put in other things, if we know there  
22 were specific positions and such that worked

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1     there.  We may put their name in as well, but  
2     beyond doing that, I don't know what else we  
3     can do.

4                     It is something I can definitely  
5     think about.

6                     MEMBER RICHARDSON:  Yes.  I wasn't  
7     thinking about search terms so much as there  
8     are a few key personnel that -- people in  
9     charge of health physics programs, for  
10    example, if you could identify their  
11    professional history when you are looking, do  
12    they end up moving to another DOE facility?

13                    We have had people that left their  
14    records to the university in the city where  
15    they were, for example.  So I was trying to  
16    think if that sparked an idea.

17                    For example, could you identify  
18    the key for a period, a covered a period, the  
19    head of the health physics department, and  
20    figure out where they ended up, and would that  
21    give you another clue for another place to  
22    look?

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1                   MR. RUTHERFORD:     And that is a  
2     good point.     We do do that on a lot of  
3     occasions.     We will actually try to determine  
4     who the RSO for some facilities or who the  
5     head of the health physics department was  
6     during those time periods.     We have done that  
7     in the past, but that is a good suggestion to  
8     ensure that is part of our protocol.

9                   CHAIRMAN MELIUS:     David, in the  
10    Rochester situation, NIOSH had talked to a lot  
11    of people at the University who were  
12    apparently trying to cooperate.     It was just  
13    identifying the person who had left with the  
14    records was hard.

15                   I was suspicious that they were  
16    available, because I knew somebody that wanted  
17    to do a study with them.     So I thought they  
18    might have been -- New York State might have -  
19    - I knew they were available at least about 12  
20    years ago.     So where they were I didn't know,  
21    but I knew somebody had access to them and  
22    knew where they were.

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1           So between Jim and I, with our  
2 contacts at University of Rochester in New  
3 York, we had a few more people that we could  
4 talk to. But it wasn't that NIOSH didn't try,  
5 and it is hard, but I think your points are  
6 good, that especially in the universities and  
7 settings, as people move around, yes, they do  
8 tend to bring records with them, if they are  
9 going to do some sort of follow-up with them.

10           Hopefully, we can identify those  
11 people.

12           MEMBER RICHARDSON: Oh, yes. I am  
13 not implying that you are not trying at all.  
14 This is total detective work. I commend you  
15 for your efforts. I thought it was an  
16 interesting one and it made me think about  
17 other lessons learned. Thank you.

18           CHAIRMAN MELIUS: Thank you. Any  
19 other questions for LaVon? If not, you are  
20 off the hook, LaVon, and we will take a break.

21           We will start at 10:45. I think we have  
22 somebody calling in then as part of our

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1 follow-up. Ted, any announcements?

2 MR. KATZ: Yes. Just that we need  
3 to try to start promptly at 10:45, for that  
4 reason.

5 (Whereupon, the above-entitled  
6 matter went off the record at 10:17 a.m. and  
7 resumed at 10:47 a.m.)

8 CHAIRMAN MELIUS: If everyone can  
9 get seated, we will get started here, please.

10 MR. KATZ: Thank you, everybody.  
11 Before we proceed, let me check the phone  
12 lines. First, our two Board Members, Dr.  
13 Richardson and Mr. Gibson, are you with us  
14 again?

15 MEMBER RICHARDSON: I am, David  
16 Richardson.

17 MR. KATZ: Well, Mr. Gibson -- I  
18 am not sure if he was going to be able to make  
19 this session either.

20 Let me also check. We are  
21 expecting a Congressional staffer to join us,  
22 Mr. Richard Miller with the House -- Education

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1 and Labor Committee of the House. Richard,  
2 are you with us? Richard Miller? We are just  
3 going to hang in here for a couple of minutes  
4 and give Richard a little bit of time to join  
5 us.

6 MEMBER RICHARDSON: I believe  
7 Richard is on the phone. Can you hear him?

8 MR. KATZ: We couldn't. We  
9 cannot. Richard, we can't hear you.

10 (Off the record comments.)

11 MR. MILLER: Hi, there. Richard  
12 Miller.

13 MR. KATZ: Okay, thank you,  
14 Richard. Glad you could join us.

15 MR. MILLER: Sorry for the delay.  
16 I called a little earlier.

17 MR. KATZ: No, that is quite all  
18 right, and we have not begun.

19 MR. MILLER: Terrific.

20 CHARIMAN MELIUS: We are just  
21 coming back from a break, and I would like to  
22 start. We have a number of administrative

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1 issues, other issues, to deal with for the  
2 rest of the day, including a number of Work  
3 Group reports, Subcommittee reports.

4           The first issue -- a couple we  
5 want to try at the time. As I said earlier,  
6 one will be this discussion of surrogate data,  
7 and we will hear from Richard Miller from the  
8 House Education and Labor Committee in a  
9 second, and then, as I said, the worker  
10 outreach evaluation framework we will talk  
11 about.

12           We are hoping that Mike Gibson  
13 will join us on the line. He had some  
14 personal business to deal with today, but  
15 should be back on later this morning or early  
16 this afternoon.

17           So why don't we start with the  
18 surrogate data discussion. There is a draft  
19 of the criteria. The Surrogate Data Work  
20 Group met a few weeks ago. There is an  
21 updated draft that I have circulated to  
22 everybody and, I believe, is on your

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1 information, the memory sticks that we were  
2 all given here.

3 Before we start that, I believe  
4 Richard Miller had wanted to give us a little  
5 bit of background. So, Richard?

6 MR. MILLER: Hi, there. Well,  
7 thank you. I won't take much of your time. I  
8 assume you have the whole Board there except  
9 David Richardson. Is that right?

10 CHAIRMAN MELIUS: David is on the  
11 line.

12 MR. MILLER: Terrific. Well, I  
13 appreciate you all just giving me two minutes  
14 here on this issue. We have had some  
15 discussions, just by way of background, both  
16 with the GAO and between and amongst a variety  
17 of Congressional -- individual Congressional  
18 offices and the Senate Health Committee and  
19 the House Ed and Labor Committee, regarding  
20 NIOSH's interpretation of EEOICPA as it  
21 pertains to the use of surrogate data and,  
22 while your Board may not be necessarily poised

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1 to address the specific legal issues, the  
2 intersect between science and laws, where  
3 policy gets formulated,

4 In this instance, the discussions  
5 that we have had and particularly with Dr.  
6 Howard when he came in, with Stu Hinnefeld and  
7 others about a month or so ago was to ask  
8 NIOSH to please present to us their view on  
9 why it is even permissible for surrogate data,  
10 with the definition of surrogate data being  
11 data used from other sites for purposes of  
12 either individual dose reconstruction or for  
13 use in decision making on whether to approve  
14 or deny a Special Cohort -- and the Agency's  
15 view expressed to us was that they believe  
16 that the statute, although it does not  
17 expressly authorize the use of surrogate data,  
18 it also does not preclude the use of surrogate  
19 data.

20 What I had sorted wanted to make  
21 sure you all had as a data point coming out of  
22 that discussion, because it included people

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1 who -- Members who were involved in the  
2 original negotiations on EEOICPA back in 2000,  
3 including Senator Bingaman and Senator Harkin,  
4 and other --

5 CHAIRMAN MELIUS: Richard, we just  
6 lost you.

7 MR. MILLER: Sorry, I interrupted  
8 you. I apologize for the interruption.

9 What happened was that, out of the  
10 course of that discussion, there was an issue  
11 raised which was, has the Department exceeded  
12 its legal authority by using data from other  
13 facilities in reconstructing dose.

14 Then, of course, a number of cases  
15 have come up over the years where this has  
16 arisen. A White Paper was provided by NIOSH  
17 to the committees, and here, I guess, is sort  
18 of where we came down, and for the benefit of  
19 your deliberations.

20 Our view, based on a textual  
21 reading of the law and the intent as folks  
22 recall and understand it, is as follows: That

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1 to the extent that radiation dose -- and this  
2 is out of Section 7384n, if you have a copy of  
3 EEOICPA handy, which deals with the section on  
4 exposure in the performance of duty -- Dr.  
5 Melius, do folks have access to a copy of the  
6 statute?

7 CHAIRMAN MELIUS: Yes, they do. I  
8 believe it has also been provided to everybody  
9 on the memory stick.

10 MR. KATZ: Yes. It was circulated  
11 to everybody, at least by a link. But, yes,  
12 it was provided in advance.

13 MR. MILLER: Thanks so much. In  
14 Section 7384n, it was sort of our view that  
15 the use of surrogate data, while not expressly  
16 prohibited, there was a clear preference to be  
17 using the data from, quote, such facility,  
18 meaning the facility where employees were  
19 employed.

20 In particular, what I would like  
21 to do is to draw your attention under Section  
22 7384n covering exposure in the performance of

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1 duty to Subpart C, which deals with the  
2 guidelines for estimating radiation dose.

3 Under that, the guideline should  
4 be based on radiation dose received by the  
5 employee, paren, or a group of employees  
6 performing similar work at such facility. It  
7 doesn't speak there to using other facilities.

8 It does contemplate the notion of  
9 coworker models by using a group of employees  
10 performing similar work, but it didn't speak  
11 to a group of employees performing similar  
12 work at any facility other than such facility,  
13 and in this case the term such facility refers  
14 to a facility where they were working, not  
15 some other facility.

16 So when we thought about the  
17 Blockson Chemical instance when, at one point,  
18 NIOSH had proposed to contend that they could  
19 reconstruct radon dose from the Blockson  
20 facility in Illinois based on emissions  
21 measured coming off of a stack of phosphate  
22 waste in Florida from a fertilizer factory

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1 there, that clearly, although you may have  
2 other ways to choose on whether you would use  
3 or not use such data, the question was is it  
4 even permissible.

5 So since we are dealing here with  
6 the guidelines for the interpretation of the  
7 statute, dealing with dose received by the  
8 employee or group of employees performing  
9 similar work at such facility -- we felt it  
10 was exceeding the statutory authority to even  
11 contemplate the use of surrogate data for  
12 approving or denying claims or approving or  
13 denying petitions. However, such guidelines  
14 also are to incorporate methods established  
15 under Subsection D below.

16 The Subsection D on the methods  
17 for dose reconstructions deal with coming up  
18 with regulations for reasonable estimates of  
19 dose received by an individual specified in  
20 The Act for each of the following employees.  
21 And again, an employee was not monitored for  
22 exposure at such facility. They were

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1 inadequately monitored at such facility. The  
2 exposure records at such facility are missing  
3 or incomplete.

4           What we have is we have a constant  
5 emphasis in four cases here toward Congress'  
6 intent that one look to such facility where  
7 the employee was employed for purposes of  
8 establishing dose, and if you can't do it  
9 using those guidelines, then you go to a  
10 Special Cohort. That is why the cohort is  
11 there.

12           So from our perspective, as a  
13 matter of what the boundary conditions were  
14 that were established and are reflected in the  
15 plain language of The Act, it seemed to us a  
16 stretch for NIOSH to conclude legally, unless  
17 there is some formal legal opinion that they  
18 have provided to you all and not provided to  
19 us -- it seemed to us a stretch to interpret  
20 that such facility could be construed to  
21 include facilities where people were not  
22 working and for where such dose could be

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1 derived.

2 So that was our conclusion in our  
3 communications. I think it was sort of a  
4 consensus view from the Senate Health  
5 Committee, Senator Bingaman, our Committee  
6 staff, that the Department had exceeded its  
7 legal authority in moving forward with the use  
8 of surrogate data.

9 I don't think any of us took any  
10 issue if surrogate data were to be used for  
11 validation purposes. In other words, if you  
12 already have some data from such facility, and  
13 you want to validate that that is reasonable  
14 data, that didn't seem to us to be exceeding  
15 the boundaries, but if you didn't have data  
16 from such facility to start with, importing it  
17 from elsewhere exceeded the statutory basis.

18 That was just our comment on that,  
19 and we thought we would put that on the table.  
20 If folks have questions, we would be delighted  
21 to take them.

22 CHAIRMAN MELIUS: Thank you, Mr.

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1 Miller. Anybody have questions? Wanda, I  
2 see.

3 MEMBER MUNN: Well, not so much  
4 questions as a comment or two.

5 Richard, I think you have defined  
6 very clearly one of the greater issues that  
7 exist in our society today. Snow talked about  
8 it in his Two Worlds. When you say policy is  
9 where law and science have to meet, you are  
10 talking about large segments of people, both  
11 with certain kinds of powers, who do not  
12 communicate well with one another, and each  
13 group working under the assumption that the  
14 other does not understand the real issue.

15 That is probably true, to a large  
16 extent. I risk offending both groups, I  
17 suppose, by saying it is probably true that  
18 most technical people don't understand and  
19 don't appreciate the law very well, and most  
20 people who are involved in the law don't  
21 appreciate and understand science and numerics  
22 very well. But that doesn't change the fact

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1 that we have a job to do.

2 I have been told on more than one  
3 occasion in this particular forum that it is  
4 not my place to question the sense of Congress  
5 or to attempt in any way to --

6 MR. MILLER: I'm sorry. Could you  
7 speak up, Wanda, a little bit? I have a hard  
8 time hearing you, trailing off.

9 MEMBER MUNN: I'm sorry. I  
10 thought I was right on the microphone. Can  
11 you hear me now?

12 MR. MILLER: Go ahead.

13 MEMBER MUNN: So, obviously, if we  
14 are to not question the position that our  
15 Congressional leaders take with respect to the  
16 scientific work that is being done, it is very  
17 difficult for us to respond to concerns of the  
18 sort that you are bringing to us here.

19 If those positions are writ in  
20 stone, as it were, and we are asked not to  
21 question them, then all we can do is accept  
22 the position that you bring to us as being an

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1 accurate one, even though that may run  
2 contrary to everything that our other  
3 scientific minds may tell us.

4 When you speak of the Blockson  
5 issue as being improperly compared to a  
6 fertilizer plant in Florida, you are speaking  
7 of a situation which is worthy of a couple of  
8 hours of vigorous debate face to face, and we  
9 certainly can't argue that with you here now.

10 But I am trying to understand exactly the  
11 bottom line of what you are saying here.

12 Are you saying that the Committee  
13 which you represent is giving instructions to  
14 this group to disregard anything other than  
15 the position that surrogate data must consist  
16 only of data from plants -- from, not  
17 necessarily plants, but facilities involved in  
18 exactly the same work with exactly the same  
19 materials? Is that the purpose of your  
20 discussion with us today?

21 MR. MILLER: Is that a question?

22 MEMBER MUNN: Yes, it is.

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1                   MR. MILLER:    Okay.    I think the  
2   concept of instructing you is a bit extreme,  
3   if that is the word you were using.   I think  
4   the point we are making is that the statute  
5   has plain language.   There was discussion at  
6   some length when this thing was put together  
7   back in 2000.

8                   Those considerations ought to be  
9   factored in as you look at whether or not the  
10  policy you have there conforms to your reading  
11  of the statute and/or your -- and to the  
12  extent that there is value in identifying the  
13  parameters that the statute contains from our  
14  perspective,   then you can weigh that  
15  accordingly.

16                  You're a body tasked with  
17  providing advice both on matters of science  
18  and policy.   You are not there to provide --  
19  you are not tasked by statute with rendering  
20  legal determinations.

21                  Having said that, you can either  
22  take or leave what it is we have to offer

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1 here, but I think that from the folks who have  
2 been looking at the use of this surrogate  
3 data, there have been a lot of questions  
4 raised.

5           There was a consideration as to  
6 whether or not to even seek a separate legal  
7 opinion from the Government Accountability  
8 Office on whether or not NIOSH was going to  
9 exceed its legal authorities by using  
10 surrogate data in a manner to dispose of cases  
11 or petitions, and we had told NIOSH that we  
12 would probably hold off on such a request for  
13 a legal opinion until we saw what the Advisory  
14 Board came back with through its Working Group  
15 process, which had been advised of by Dr.  
16 Howard, and we were going to wait until we saw  
17 what your policy looked like and whether Dr.  
18 Howard adopted it or not.

19           So the final shape of what our  
20 reaction will be from a Congressional point of  
21 view will, in part, be shaped by what you all  
22 and Dr. Howard and the Agency adopt. So at

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1 this point, our view is -- this is the  
2 perspective we have to offer in terms of the  
3 legislative language and our appreciation of  
4 what the history was.

5           There may be different legal views  
6 and different legal opinions about what this  
7 law means or how you should or shouldn't use  
8 surrogate data, and I am sure that NIOSH has  
9 their own views, but to the degree and extent  
10 that you are going to be developing a policy  
11 and sending it up through as a recommendation  
12 to the Secretary, at that point we will make  
13 our own judgments as to how we will choose to  
14 react, whether it is to seek a legal opinion  
15 to provide greater legal clarity in the  
16 statute, if necessary. So that remains to be  
17 seen.

18           MEMBER MUNN: Thank you.

19           CHAIRMAN MELIUS: Dr. Ziemer.

20           MEMBER ZIEMER: Good morning,  
21 Richard. Paul Ziemer here. I just wanted to  
22 seek some clarity when you spoke about our

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1 view and how we felt, and so on.

2 Are you expressing the views of  
3 the current Senate Committee with which you  
4 are working versus the initial views when the  
5 legislation was established? It wasn't clear  
6 to me, or were you indicating that it reflects  
7 both? Could you clarify that, and then I have  
8 a follow-up.

9 MR. MILLER: Sure. Hi, Dr.  
10 Ziemer. Thank you for the question.

11 What we are reflecting right now  
12 is sort of a product of our Committee's work.

13 I know the Senate Health Committee is also on  
14 this call. So they can certainly speak for  
15 themselves, because I am only on the House  
16 side, and there is another body on the other  
17 side of the Capitol.

18 MEMBER ZIEMER: I'm sorry. I  
19 meant to say the House side. I didn't want --

20 MR. MILLER: I think the Senate  
21 folks are on the call as well.

22 MEMBER ZIEMER: -- didn't want to

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1 insult you with Senate staff, sir. Go ahead.

2 MR. MILLER: In any event, what we  
3 are offering you is -- this issue was brought  
4 to a head since I have come to the Committee  
5 as something that a bipartisan working group  
6 in the House and the Senate of various member  
7 offices, many of whom were signatories on the  
8 request to the GAO, wanted to get addressed.

9 They had two sets of legal issues  
10 in the implementation of the statute, one of  
11 which is this, and there is another one  
12 involving the Labor Department. They have  
13 asked for our assistance in bringing clarity  
14 to this issue, and try to identify whether it  
15 can be resolved administratively or whether  
16 this is something that needs to be addressed  
17 legislatively.

18 So that is the capacity in which I  
19 am bringing this forward.

20 MEMBER ZIEMER: Thank you. That  
21 is helpful. The other comment that I would  
22 add at this point, and I think we are aware

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1 that there has been some debate over the years  
2 as to, certainly, the proper use of surrogate  
3 data, and one of the focuses and objectives of  
4 Dr. Melius' Work Group is to bring clarity to  
5 that in terms of how we use that and to  
6 develop criteria for the proper use.

7 I think many of us on the Board  
8 feel that, from a scientific point of view,  
9 the use of surrogate data -- not just in this  
10 particular instance, but as a broad scientific  
11 approach to many matters where there may be,  
12 for example, missing information -- is a valid  
13 scientific process.

14 The public policy part of that, of  
15 course, is what is being dealt with here, that  
16 if the public policy is going to use that, we  
17 obviously have to use it in a proper way, and  
18 so far we have been operating under the sort  
19 of understanding that surrogate data was  
20 allowed, provided it was properly used.

21 You mentioned the criteria which  
22 you want to look at, and I think that is

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1 entirely proper, and we would not want to be  
2 using surrogate data improperly, in any event.

3 So our goal in that regard, I think, matches  
4 yours. However, if the legislative bodies  
5 believe that, even with that, it is not  
6 appropriate for this program, I think that is  
7 their prerogative to move in what direction  
8 they believe to be appropriate, and we would  
9 have to live with that. But I do want to at  
10 least personally be on record as indicating  
11 that the proper use of surrogate data  
12 certainly is not scientifically wrong, and  
13 that could, if properly used, help in the  
14 decision making within the framework of the  
15 existing law.

16 So those are my comments, Richard.

17 Thank you.

18 MR. MILLER: Well, Dr. Ziemer, I  
19 think, if the statute were clear that there  
20 were express authorization to do so, I don't  
21 think there would be any dispute in this phone  
22 call today; but I think there is significant

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1 question as to whether the Department has  
2 exceeded its legal authority up to this point  
3 in using surrogate data, and your Working  
4 Group or the Working Group that Dr. Melius has  
5 been chairing, I guess, has been trying to  
6 refine a policy so that it is validated and is  
7 appropriately applicable.

8 I am still looking for someone to  
9 show me where there is clear and express  
10 authorization for the Department to do it,  
11 given that when you read the statute, it seems  
12 pretty clear that the statute wants to focus  
13 on the facility where the incident -- the data  
14 from the facility where the employee was  
15 employed, and not elsewhere.

16 So I think, you know, your -- I  
17 think the area of consideration here really is  
18 do you have express authority to even be going  
19 down this road, or not?

20 CHAIRMAN MELIUS: Thank you,  
21 Richard. Emily Howell, who is representing  
22 HHS counsel is at the microphone. So I

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1 believe she wants to say something.

2 MS. HOWELL: I wanted to thank  
3 Richard Miller for his input here today, but I  
4 did want to clarify to the members of the  
5 public and the Board that it is the Department  
6 who has the sole provenance in interpreting  
7 the statutory language where the legislative  
8 intent is unclear.

9 I think we have informed the Board  
10 in the past that we do interpret the language  
11 that Richard has pointed out to allow for the  
12 use of surrogate data as a legal matter. It  
13 is up to the Board to determine what  
14 recommendations it feels are appropriate about  
15 the use of surrogate data from a scientific  
16 perspective. It is not to the Board to opine  
17 about the legal interpretation that the  
18 Department has rendered on this matter.

19 CHAIRMAN MELIUS: Before you sit  
20 down, Emily, I continue to -- I just don't  
21 recall. Has this ever been provided to the  
22 Board in writing?

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1 MS. HOWELL: I believe that this  
2 has been provided in presentations. I am not  
3 sure if it has been provided in writing. I  
4 know Dr. Wade may --

5 DR. WADE: There was a closed  
6 session of the Board where this issue was  
7 presented.

8 MS. HOWELL: So it is not typical  
9 HHS protocol to provide the Board with legal  
10 opinions rendered for the Agency.

11 CHAIRMAN MELIUS: But is there a  
12 written legal opinion? I don't know how HHS  
13 counsel operates. I am not necessarily saying  
14 we are asking for it. I am just trying to  
15 understand.

16 MS. HOWELL: An opinion was  
17 issued to the Agency.

18 CHAIRMAN MELIUS: Thank you. Any  
19 questions? Before you sit down, Emily, any  
20 other Board Members have questions for Emily?  
21 Brad?

22 MEMBER CLAWSON: Well, as Paul was

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1 talking about the scientific end of this, I  
2 would just like to bring up, too, that I have  
3 a real heartache with using it, because you  
4 are using two totally different facilities.  
5 They keep calling up the phosphate plant in  
6 Idaho which I am intimately knowledgeable  
7 with, which looking at the designs of Blockson  
8 and everything else, which is totally  
9 different.

10 The processes are different. The  
11 issues -- I just really, from my perspective,  
12 cannot see how they can even use that. I know  
13 the weaknesses of that facility. I know how  
14 the process was run in there and so forth, and  
15 I really personally -- it is just my personal  
16 opinion -- have a hard time seeing how they  
17 can even use it.

18 CHAIRMAN MELIUS: We will be  
19 talking more about those issues in a second.  
20 Is someone from the Senate Health staff on the  
21 call? I wasn't given information on who might  
22 be participating. So I know with the weather

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1 --

2 MS. LAM: Yes. It is Livia Lam.

3 CHAIRMAN MELIUS: Do you have  
4 anything to add at this point?

5 MS. LAM: Not at this point.

6 CHAIRMAN MELIUS: Okay.

7 MR. MILLER: Dr. Melius, would it  
8 be okay if I just jumped in for one last  
9 point.

10 CHAIRMAN MELIUS: I was going to  
11 call on you.

12 MR. MILLER: Regarding the  
13 comments, we regard the legal opinion, whether  
14 there is or there isn't one, of the  
15 Department, we have not yet seen a legal  
16 opinion from the Department on this. We have  
17 certainly received verbal ones. However, I  
18 just wanted to bring to everyone's attention  
19 that I think it is a very cramped reading of  
20 the authorization for the Advisory Board to  
21 presume what it can and cannot provide advice  
22 on, and I don't mean to publicly disagree with

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1 legal counsel's view of what you are entitled  
2 or not entitled to provide advice on. But let  
3 me just say this, that the duties of the Board  
4 are to advise the President on the development  
5 of guidelines under 7384n(c).

6 Not that is the very specific  
7 guideline we are talking about here, and that  
8 guideline, as it has always been debated and  
9 discussed, the dose reconstruction rule and so  
10 forth, has constantly been a matter of a  
11 mixture of law and policy.

12 Likewise, it also provides for  
13 providing advice with regard to other matters  
14 that may be deemed appropriate. So it is not  
15 quite as cramped a set of authorities. I  
16 would just encourage you to go look at the  
17 Advisory Board section and look at the  
18 specific tasking that you have received,  
19 because I don't believe it is quite as limited  
20 as was just defined by counsel. But that is  
21 for you and your counsel to work out.

22 CHAIRMAN MELIUS: Thank you,

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1 Richard. Does any other Board Members --  
2 David Richardson, do you have questions?

3 MEMBER RICHARDSON: Yes. My first  
4 question is: Is there a case currently under  
5 our consideration in which the proposed method  
6 for radiation dose assessment depends upon  
7 exposure information from another facility, or  
8 are there cases?

9 CHAIRMAN MELIUS: There are cases.  
10 There are individual dose reconstructions  
11 where surrogate data has been used, and there  
12 are a number of pending SEC evaluations where  
13 part of the NIOSH method for doing  
14 reconstruction involves the use of surrogate  
15 data.

16 MEMBER RICHARDSON: Could you list  
17 those out, Dr. Melius?

18 CHAIRMAN MELIUS: Actually, it may  
19 be a little bit out of date, but I know there  
20 is a report from SC&A that is -- what? -- two  
21 years old, John?

22 MEMBER RICHARDSON: Yes, that is

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1 what I am wondering, because for example,  
2 Blockson, it seems like we are focusing on.  
3 My understanding now is that the use of the  
4 surrogate data has been put aside, and there  
5 is an exposure reconstruction model which is  
6 based on source terms and kind of a set of  
7 parameter assumptions.

8 So that is no longer drawing upon  
9 the Florida phosphate data, for example.

10 CHAIRMAN MELIUS: I believe John  
11 Mauro is getting to the microphone. He may be  
12 able to --

13 DR. MAURO: Yes. This is John  
14 Mauro with SC&A. We have been asked to review  
15 two Site Profiles from the perspective of  
16 degree to which surrogate data was used and  
17 was used in accordance with the draft criteria  
18 that the Surrogate Data Work Group developed.

19 I am trying to think of the two  
20 sites. One, I believe, was Texas City, and I  
21 am drawing a blank on the other one, but there  
22 are a number of sites where we explicitly

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1 looked at it from the perspective of the use  
2 of the surrogate data.

3 So, absolutely, surrogate data has  
4 been and is being used on a number of Site  
5 Profiles.

6 MEMBER RICHARDSON: Isn't  
7 Bethlehem Steel one of those, Dr. Mauro?

8 DR. MAURO: Bethlehem Steel, yes,  
9 is one of those. At that site, data was used  
10 from Simonds Saw and applied to supplement the  
11 data that Bethlehem Steel had.

12 I would say the one area that goes  
13 to perhaps the heart of this issue is the use  
14 of TBD-6000/6001. What this is is a generic  
15 compendium of data collected from many, many  
16 facilities dealing with uranium, and on many  
17 occasions some of the old AWE facilities where  
18 data -- where a dose reconstruction or an SEC  
19 issue might arise or whereby the compendium of  
20 data that is available in TBD-6000/6001 has  
21 been drawn upon, which basically represents a  
22 compendium of data from other sites that are

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1 being brought in and applied to supplement  
2 data for a particular site under  
3 consideration.

4 MEMBER RICHARDSON: Wasn't it also  
5 the case, Dr. Mauro, that the neutron/photon  
6 ratios that were at Lawrence Livermore at one  
7 point were being used at Hanford?

8 DR. MAURO: Yes. Neutron/photon  
9 ratio is another area. We have been  
10 categorizing that as different. When we have  
11 been looking at the surrogate data issue, we  
12 have divided the matter from a scientific  
13 perspective into what we would call Type 1  
14 surrogate data.

15 This is where you take air  
16 sampling data, bioassay data, film badge data,  
17 direct dosimetry data directly related to the  
18 reconstruction of dose, and where that data  
19 from one facility is used at another, that is  
20 what we, SC&A, have been calling the term Type  
21 1 application.

22 There is also what we call Type 2

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1 where it is more indirect, and the  
2 neutron/photon ratios are what we consider to  
3 be a Type 2. But, yes, in a way, if you want  
4 to broadly interpret or define surrogate data,  
5 the use of neutron/photon ratios that are  
6 drawn upon from the experience of the industry  
7 and the weapons complex where you have some  
8 understanding of what those ratios might look  
9 like for certain types of activities, and then  
10 applying that ratio observed at one site or  
11 facility to another.

12 I guess you could broadly  
13 interpret that as a type of surrogate data  
14 also, but we have been calling that a Type 2  
15 surrogate data.

16 CHAIRMAN MELIUS: Stu has  
17 comments.

18 MR. HINNEFELD: Yes, Stu Hinnefeld  
19 from OCAS. I just wanted to offer one point  
20 of clarification in response to Dr.  
21 Richardson's question.

22 The Blockson SEC that has been in

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1 front of the Board does not use surrogate for  
2 radon, but there is an application of  
3 surrogate data in that. It is the particulate  
4 exposure in -- I forget exactly where in the  
5 plant. This is the Building 40 particulate  
6 exposure model, relies on dust loading  
7 measurements from the Idaho Phosphate Plant, I  
8 think the one that Brad alluded to earlier.  
9 So that surrogate use is in Blockson.

10 Then I think most of the other  
11 uses that are in front of the Board are TBD-  
12 6000 uses.

13 CHAIRMAN MELIUS: And, Stu, before  
14 you sit down, I believe that either you or Jim  
15 -- I can't remember who it was -- indicated  
16 earlier today that NIOSH is also currently  
17 reviewing your use of surrogate data in a  
18 number of settings based on your criteria.

19 MR. HINNEFELD: Yes. It is our  
20 judgment that there are some, but not a lot of  
21 differences between this draft Work Group  
22 document in our IG core guidance. So we are

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1 proceeding now to try to do that, but that is  
2 sort of different question. That is the  
3 question of, if it is allowable, are we doing  
4 it well? Are we doing it appropriately? That  
5 is sort of a different question.

6 CHAIRMAN MELIUS: Okay. Thank  
7 you, Stu. Yes, John?

8 DR. MAURO: In order to -- there  
9 is a continuum of what might be considered  
10 surrogate data. I just thought of another  
11 perspective that may enrich the appreciation  
12 of the complexity of the subject.

13 There are OTIBs procedures. I am  
14 thinking of OTIB-0054. This is where you have  
15 bioassay data from a person, a beta-gamma  
16 bioassay urine sample, and you want to assign  
17 what mix of radionuclides might be -- that  
18 person may have taken in to have that result  
19 in his urine.

20 What has been done in this OTIB is  
21 to draw experience from what the mix of  
22 radionuclides are in different types of

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1 reactors throughout the complex. So in a way,  
2 one could argue the mix that you assign to a  
3 person that you have bioassay data at one  
4 facility -- you may say, well, we are going to  
5 assign this mix based on experience at another  
6 reactor, because we know this is the kind of  
7 mix that we would expect this person to have  
8 been exposed to.

9           It is important, I think. So  
10 there is this degree and continuum of the use  
11 of surrogate data.

12           CHAIRMAN MELIUS: Thank you. Any  
13 more questions for Richard Miller? If not,  
14 obviously, Richard, you are welcome to stay on  
15 the line as we discuss this issue more, but I  
16 am trying to move this into different parts.

17           Now all of you should have  
18 received an updated set of criteria dated  
19 January 2010 on draft criteria for the use of  
20 surrogate data. This is based on some earlier  
21 drafts that came from the Surrogate Data Work  
22 Group, which I chair.

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1           This draft was updated based on  
2   our last telephone call. I will say up front,  
3   it does not represent a consensus of the group  
4   nor is it a specific recommendation from the  
5   Surrogate Data Work Group. This was something  
6   that the -- the updates to this policy were  
7   something I put together based on our  
8   discussions at the Work Group meeting that we  
9   had, and then circulated to the Work Group  
10   and, after that, to the Board.

11           So much of this looks familiar. I  
12   will say that the parts of it that are updated  
13   are probably starting on page two to page  
14   three. We expanded some of the discussion on  
15   plausibility, and then tried to summarize how  
16   I thought this was applied and some of the  
17   considerations. It does not deal directly  
18   with the sort of legal issues that were raised  
19   with that. So I guess we would be open to  
20   discussions of that, and we will start with  
21   Wanda again.

22           MEMBER MUNN: I have no comments

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1 of my own. Dr. Lockey, who had to leave us,  
2 left a couple of comments that he asked I  
3 relay.

4 On the first page, the last  
5 sentence of the first paragraph, he indicates  
6 the word "latter" should read "former." I  
7 think he is correct.

8 CHAIRMAN MELIUS: Minor.

9 MEMBER MUNN: This reports focuses  
10 on the former situation, Type 1. First  
11 paragraph, last sentence.

12 Then on page 2, the first sentence  
13 just under the four bullets under Item 3:.  
14 Where it says "Surrogate data should not be  
15 used if the equivalents are claimant  
16 favorability of working conditions," he marked  
17 through "are claimant favorability" and says  
18 he is not sure what this means.

19 It does seem to be a little -- the  
20 sentence itself seems a little clumsy.  
21 Doesn't seem clear enough.

22 MEMBER ZIEMER: This is Ziemer.

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1 Dr. Melius has suggested to me that it was my  
2 sentence. The only reason he knows that, he  
3 doesn't see any dangling participles. So it  
4 must be mine.

5 I honestly don't recall why the  
6 word claimant favorability would be in there.

7 I think, without that, the sentence is still  
8 clear, that we are looking for equivalence in  
9 terms of working conditions, source terms and  
10 processes. If you couldn't establish those,  
11 then you don't have a case.

12 I am not sure where that came in  
13 or if that got added later. I admit, it is  
14 not even clear to me, if it is my sentence,  
15 why it is in there.

16 MEMBER MUNN: I suspect that Dr.  
17 Lockey would have suggested that those three  
18 words be removed, but I am not certain that  
19 would be his recommendation. It would be  
20 mine.

21 On page 3 under the first bullet  
22 there, the end of the second line, "is based

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1 on." He suggests used "when" rather than  
2 "based on." "Have the models been validated  
3 when actual monitoring data collected in a  
4 similar situation is available?" he would add.  
5 Are available.

6 Second bullet, third line down,  
7 the word "affect." He suggests that affect is  
8 too broad or is not as appropriate as  
9 "significantly impact." So that he would  
10 suggest the sentence read: "Have all of the  
11 factors that could significantly impact  
12 exposure been taken into account," because  
13 most anything could affect it. Whether it  
14 affects it in the fashion that is of any  
15 consequence is an issue.

16 In the last paragraph, he suggests  
17 on the third to the last line that "the rare"  
18 be removed, and instead of "fully met" as the  
19 last words of that sentence, the words  
20 "address and documented in the Evaluation  
21 Class."

22 So let me read that sentence, I

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1 believe, as he is suggesting it. "Given the  
2 difficulties in obtaining the comprehensive  
3 information needed for validating the use of  
4 surrogate data for individual dose  
5 reconstruction and the inherent concerns about  
6 its use by claimants, the Work Group  
7 recommends that the use of surrogate data be  
8 limited to circumstances where other  
9 approaches are not feasible, and then only if  
10 the above criteria have been addressed and  
11 documented in the Evaluation Report."

12 That is the last of Dr. Lockey's  
13 comments.

14 CHAIRMAN MELIUS: Dr. Lemen?

15 MEMBER LEMEN: As a new Member of  
16 the Board, I was not on this Committee or even  
17 addressed this issue previously, since this is  
18 my first meeting. But I know that probably my  
19 comments are going to be taken adversely by  
20 the rest of the Board Members, but I feel  
21 compelled to tell what I think about using  
22 surrogate data, and I think that using

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1 surrogate data, first of all, is absurd.

2 I think that there are many  
3 conditions in plants that you cannot control  
4 for using data from another plant, such as  
5 what type of protective measures were taken in  
6 the other plant.

7 As I understood this issue with  
8 the phosphate data, I happen to have done a  
9 study in the phosphate industry in Florida,  
10 and that is a completely outdoor facility. It  
11 may have similar processes, but it is not  
12 going to compare to an indoor facility, in the  
13 first place, and there are a lot of  
14 differences from plant to plant.

15 So I find even considering the use  
16 of surrogate data for the purposes of doing  
17 compensation a misguided approach, and I would  
18 like to suggest that, instead of "rare," you  
19 say "never."

20 That is my opinion, and I know  
21 that that is adverse to the fact that you set  
22 a Working Group up on this, but I have to

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1 express I just feel that the use of surrogate  
2 data is inappropriate.

3 CHAIRMAN MELIUS: Other comments  
4 from Board Members? Bill?

5 MEMBER FIELD: I guess I have a  
6 little bit different take on it. I think, in  
7 some cases, surrogate data can be very useful,  
8 but I think that is the whole question. In  
9 some cases, it goes back to the  
10 representativeness of the surrogate data. How  
11 representative is it to the site in question,  
12 which brings me back to the draft on page 2,  
13 number 3, the bottom comment there.

14 "Do the surrogate data reflect the  
15 type of operations or work practices in use at  
16 the facility in question?" So I guess my  
17 question would be how is that evaluated? Do  
18 you need a whole new Site Profile for that  
19 site to see if it -- that is my whole  
20 question, is how representative is it, and how  
21 far do you really explore it to assess its  
22 representativeness?

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1                   CHAIRMAN MELIUS:     Well, in the  
2     circumstances that we have -- it is assessed,  
3     and there are examples, and I guess Blockson  
4     would be one that we talked about yesterday,  
5     is that where NIOSH has proposed the use of  
6     surrogate data based on the Florida phosphate  
7     -- I guess this is for radon -- and so in  
8     examining and evaluating that source of that  
9     data, that information, we have determined  
10    that it was not an appropriate, basically, by  
11    comparing the two facilities, and that it does  
12    require some due diligence to do that.

13                   I think, back to Dr. Lemen's  
14    comments earlier and Dr. Lockey's, another way  
15    of thinking about the never/rare to just  
16    leaving it open is I think we also have to  
17    keep in mind that there is also -- both the  
18    statute and, obviously, the regulations allow  
19    the alternative approaches, which is the  
20    Special Exposure Cohort.

21                   That is really what we are  
22    weighing. The use of "rare" in that, I will

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1 not try to attribute that to Dr. Ziemer. That  
2 is mine. I will be honest. But it was to try  
3 to capture that we would be very stringent on  
4 that.

5           Again back to your comment, maybe  
6 this was developed assuming that surrogate  
7 data is allowed to be used legally, but I  
8 think we have to sort of capture some of the  
9 balance there of, one, how you apply it.

10           I guess, again, assuming that it  
11 is legally permissible to use it, then I don't  
12 know if I would agree with the comment that  
13 there is never a circumstance, because there  
14 may be one. Again, I am very loathe to use  
15 it, but I can't rule out that there would be a  
16 circumstance where it might not be appropriate  
17 to do that.

18           I can tell you, the history of  
19 this issue was it is something that was raised  
20 by the Board. I don't recall it, but I guess  
21 we did have a legal briefing when it was first  
22 raised a number of years ago on it, and then

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1 we developed -- the Working Committee  
2 developed some criteria.

3 After we developed some draft  
4 criteria, then NIOSH developed their criteria,  
5 and we have gone back and forth, and we have  
6 some, obviously, pending evaluations.

7 Some of those have been sort of --  
8 Originally, the Work Group was focusing on  
9 Blockson and Texas City as the examples that  
10 we would sort of initially look at from the  
11 surrogate data, and then NIOSH decided not to  
12 use surrogate data at those sites, at least  
13 preliminarily. I don't think you have reached  
14 a final decision on Texas City yet, but at  
15 least for the radon they went to a different  
16 model.

17 So we start with the general and  
18 then try to see how it would apply, but it is  
19 sort of difficult, and there is a long history  
20 here that at least the new Board Members and  
21 even some of the more recently appointed Board  
22 Members have picked up on. Actually, Henry

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1 probably remembers back to the early  
2 discussions of it.

3 MEMBER ANDERSON: I remember the  
4 briefing.

5 CHAIRMAN MELIUS: Henry, and then  
6 Dr. Ziemer.

7 MEMBER ANDERSON: Yes. I think,  
8 one, I would -- as a new Member, I would  
9 support the need to develop some kind of a  
10 written set of guidelines, the major  
11 challenges, but you would like to have, before  
12 decisions are starting to be made, a set of  
13 criteria. You can basically say does it meet  
14 this or does it not, rather than wait until we  
15 have a set of circumstances and then say, wow,  
16 gee. Then it isn't consistently applied.

17 Now coming up with that list is a  
18 major challenge. So I don't know. I think  
19 this does a good job kind of framing or, as we  
20 have done in these meetings, bounding things.

21 One thing I would think might be  
22 worth putting in here, and this is just for

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1 discussion, its kind of primary use versus  
2 secondary use, that if you have no data -- I  
3 mean, I could see surrogate data becoming the  
4 driver for most of these SECs. You look --  
5 there is not enough data to really do it.

6 Now surrogate data could be used  
7 to, well, you don't have representative  
8 samples from a site, but you have some values,  
9 and you say are these likely to be on the low  
10 end? Are they likely to be the high end, or  
11 what? So then looking at beefing that up by  
12 saying, gee, it is very similar to what we  
13 have seen at other sites, gives you a better  
14 confidence on how you might be able to use  
15 those, versus we don't want to have any.

16 So let's try to look at a site to  
17 then assign those values to another. So I am  
18 probably like Dick saying that, if you don't  
19 have any measures to basically apply  
20 everything to a -- use a surrogate set of data  
21 to assign to a facility, I think that, to me,  
22 would be very problematic and reaches the

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1 boundaries of kind of zero to one, while it  
2 covers the universe.

3 So a primary/secondary, I think,  
4 is one way. I think it could be useful to  
5 support describing activities, but I wouldn't  
6 go beyond it as support data.

7 CHAIRMAN MELIUS: Initially with  
8 SC&A, as John Mauro mentioned, he had built  
9 sort of Type 1 and Type 2. As you heard from  
10 even his earlier presentation, it is sometimes  
11 hard to make even that distinction at times,  
12 because there are things that fall in between  
13 the two.

14 Generally, we are trying to focus  
15 just on Type 1, and I actually agree with you,  
16 Henry. It may be, in some ways, more helpful  
17 to think about both Type 1 and Type 2 at the  
18 same time, at least to capture some of the  
19 criteria and how the application of the  
20 criteria would sometimes ease up with a Type 2  
21 as opposed to a Type 1 where you have no data.

22 MEMBER ANDERSON: The other

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1 comment was at some point, you have to get  
2 into a how much effort then needs to go into  
3 looking for surrogates. I mean, once you say  
4 you can use surrogate, how broad a search and,  
5 therefore -- I mean, if one were limited to  
6 say you want to look at data from the same  
7 time period.

8                   Since most of these where the data  
9 is missing are the early years, you don't have  
10 to search very hard, but going broader than  
11 that, I think we need a limit as are we  
12 looking -- you know, when we heard about on  
13 the phosphate side, well, maybe there is some  
14 data from Poland or wherever. Well, we ought  
15 to have a set of criteria for when do we not  
16 drag this out.

17                   CHAIRMAN MELIUS:           Thank you.  
18 Paul?

19                   MEMBER ZIEMER:    I appreciate the  
20 concerns that Dr. Lemen raised. I did want to  
21 point out that in Item 4, which is temporal  
22 considerations, part of the effort there was

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1 to point out that, in fact, it is not fair  
2 game to use surrogate data if you don't meet -  
3 - it is not just a plant that is called the  
4 same thing, but there are these other  
5 considerations, what we call here temporal,  
6 and that there are some criteria about  
7 monitoring methods, the procedures used, the  
8 working conditions.

9 So there is a lot of opportunity  
10 for a mismatch, which would rule out the use  
11 of the data. So the criteria -- you know, it  
12 can be fairly rigorous, and you would have to  
13 determine which items are not critical to the  
14 final outcome, but I think all of those things  
15 have to be considered, and you have to make a  
16 judgment on the extent to which the use is  
17 appropriate.

18 I would point out -- and I just  
19 noticed here, you see an asterisk in there,  
20 and the footnote, I think, from our early  
21 draft dropped out, but that footnote spoke to  
22 the issue of what same general period means.

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1           Same general period has different  
2 meanings for different things. For example,  
3 if you are talking about legal requirements,  
4 the same general period might be the period  
5 during which a certain dose limit was enforced  
6 in some way versus later.

7           We have seen this in facilities  
8 where the law changed in terms of dose limits  
9 or something, and subsequently the approaches  
10 and procedures changed. So that is one kind  
11 of a general period limit.

12           Sometimes it has to do with  
13 technology. Suddenly, you can do whole body  
14 counting, and you couldn't before. So you  
15 have those kinds of things. So the same time  
16 period might be a year. It could be a decade.

17       So I think you have to look at that, and that  
18 footnote had to do with sort of clarifying.

19           Time period does not necessarily  
20 mean that same year, but what can you say in  
21 terms of the equivalence of all of these  
22 things, which may be a bigger or a smaller

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1 time period.

2                   So there is a lot of those issues  
3 that come up, and I kind of agree with what  
4 Andy says here, that if you have the criteria,  
5 aside from the legal issue which Dr. Miller  
6 raised with us earlier, but if we have this  
7 use, even in cases where there are SECs, you  
8 have some cancers which are not covered, and  
9 what do you do with claimants for whom there  
10 is no data? Sometimes having surrogate data  
11 helps you in even those cases where we have an  
12 SEC.

13                   So I will make the statement I had  
14 made before. I think, in general in science,  
15 there are cases where we use surrogate data.  
16 It is used sometimes even in epidemiology, as  
17 Dr. Field knows, and again you have to make  
18 sure that you are using it appropriately.  
19 Otherwise, you can distort or even invalidate  
20 the outcomes.

21                   So as a general approach, I don't  
22 object to it at all. I think it is

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1 appropriate. There are cases where it can  
2 indeed help us. The legal issue might turn  
3 out different, and it may be -- I think Dr.  
4 Miller suggested that the Board could weigh in  
5 on 83.14 -- is it 83.14? Well, in any event,  
6 the dose reconstruction rule.

7 Well, I don't want to get off on  
8 that.

9 MR. HINNEFELD: The dose  
10 reconstruction rule is 82. I think it might be  
11 relevant to 83 as well, which is the SEC rule.

12 MEMBER ZIEMER: Well, in any  
13 event, insofar as the Board would want to  
14 weigh in on that separately, but otherwise the  
15 legal part, I think, we may have to leave to  
16 the legislature.

17 MEMBER LEMEN: Could I possibly  
18 comment briefly on Dr. Ziemer's comment or did  
19 you want to go to somebody else?

20 CHAIRMAN MELIUS: Well, Dr. Poston  
21 has waited patiently. Okay, Dr. Lemen.

22 MEMBER LEMEN: I just wanted to

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1 say that I agree that in epidemiology we often  
2 use surrogate data. As I understand our role  
3 on this Committee, however, we are  
4 compensating people based upon calculations  
5 that we make for their radiation exposure in  
6 the plant that they are in, and when you do an  
7 epidemiological study, you are going to put  
8 all the caveats together that Andy talked  
9 about and you talked about, and you are going  
10 to publish that, and that is what the  
11 epidemiology says in that study. So you can  
12 take that or leave it.

13 Here where we are using surrogate  
14 data, as I see it, we are talking about real  
15 people that are waiting to get compensated and  
16 using data that has multiple caveats to it,  
17 such as you might do in an epidemiological  
18 study, seems to me -- if I don't understand  
19 the role of the Committee, correct me, but  
20 seems to me completely wrong.

21 When you are talking about  
22 compensating people, you don't play around

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1 with caveats and other things of that nature.

2 That is where I am coming from.

3 I don't deny that surrogate data  
4 has been used in some cases in epidemiology,  
5 but I think we have to divorce ourselves from  
6 the role of epidemiology and look at our role  
7 as Board Members, and is it really  
8 scientifically solid to use surrogate data  
9 when we are going to base that on whether or  
10 not a person gets compensated or not? That is  
11 where I am coming from.

12 CHAIRMAN MELIUS: I would just add  
13 to that, that when the Work Group met and we  
14 were discussing this issue with NIOSH, NIOSH  
15 said they were not basing using the use of  
16 surrogate data in epidemiological studies as a  
17 justification in parallel to what is being  
18 done for dose reconstruction.

19 So they are acknowledging that  
20 distinction -- nor the use of surrogate data  
21 in terms of radiation protection matters. I  
22 think they recognize there is a difference

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1 now. We may still have a difference in what  
2 that difference is, but they are acknowledging  
3 that.

4 Dr. Poston, you have been patient.

5 MEMBER POSTON: Thank you, Dr.  
6 Melius. I guess in general, I am in support  
7 of surrogate data, but I would like to go back  
8 to your word, which would be rare.

9 I see the use of surrogate data or  
10 the nonuse of surrogate data as equivalent to  
11 asking all the NIOSH staff to have a lobotomy  
12 and forget all the experience that they have  
13 in how do you apply the scientific principles  
14 and so forth to solve a problem.

15 I think what you have written here  
16 is very important. The temporal  
17 considerations and the plausibility, to me,  
18 are the keys to this, and it falls not  
19 necessarily to the Board, but it certainly, to  
20 me, would fall to the Work Group to make a  
21 determination of whether NIOSH has used  
22 surrogate data appropriately.

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1                   So if I were doing dose  
2 reconstruction for a facility, the first  
3 question I would ask is, is this plausible?  
4 Does this make sense? Is this appropriate? If  
5 the answer is no, then it is clear what you  
6 do.

7                   So somehow NIOSH has to justify  
8 that to the Work Group, and it is up to us,  
9 before it comes to the main Committee, to  
10 decide whether or not they have done things  
11 appropriately, and that is what SC&A, that is  
12 what the Work Group is charged to do, in my  
13 opinion.

14                   CHAIRMAN MELIUS:        Thank you.  
15 David Richardson, do you have anymore  
16 questions or comments?

17                   MEMBER RICHARDSON:        I do.  
18 Firstly, I agree with the comment that  
19 epidemiology is different than what we are  
20 doing here, and in epidemiologic study it is  
21 fine to break people into groups of three or  
22 four or five categories, and those categories

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1 can have lots of variation within them, and if  
2 you are -- you want to draw a contrast between  
3 groups of people.

4 So you are not trying to estimate  
5 an individual's dose, and it is fine to have  
6 lots of error there. You want to characterize  
7 kind of the average value for the group, and  
8 contrast those groups.

9 So here, I think the framework is  
10 sort of coming from job exposure matrices or  
11 the kinds of things that industrial hygienists  
12 do to characterize the exposure conditions for  
13 people in different areas or in different  
14 times, and they may draw analogies to other  
15 plants. But those are -- I mean, those sort  
16 of methods are used not to assign scores to  
17 individuals. They are to characterize the  
18 mean value for a group and maybe its variance.  
19 I think, to me, that is kind of starts to get  
20 to kind of where the discomfort is.

21 One specific question about this  
22 document. Item 1 is hierarchy of data. I was

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1 surprised in reading that, because my  
2 impression was the hierarchy of data would be  
3 at a given facility, for an individual, if you  
4 have monitoring data, that would be  
5 preferable.

6 If you have workplace monitoring  
7 data, not individual level monitoring data,  
8 that would second in the hierarchy, and then  
9 below that would be surrogate data. But the  
10 way the document is written is surrogate data  
11 should not be used to replace available data  
12 from the site in question that is at the same  
13 or at a higher level in the hierarchy, which  
14 would imply that you might have workplace  
15 monitoring data for your facility, but there  
16 is surrogate data at the individual level that  
17 in some sense would be preferable to the  
18 actual data you have for area monitoring for  
19 your facility.

20 Am I reading the document wrong or  
21 are you actually imagining that there are  
22 situations where, even though you have data

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1 for a facility, you would want to replace it  
2 with surrogate data?

3 CHAIRMAN MELIUS: The intention of  
4 what is written there is consistent with what  
5 you just said. Maybe we just need to clarify.

6 Maybe sort of which way it goes in the  
7 hierarchy is confusing. Let me try to clarify  
8 that, but we are not talking about trying to  
9 use surrogate process data to replace when  
10 there is lots of workplace monitoring data or  
11 something. So let me try to clarify that.

12 MEMBER RICHARDSON: Yes, because  
13 it sort of brings a bunch of scenarios where,  
14 if it is equal or -- I was surprised. I guess  
15 I wasn't surprised by that.

16 I started to think about it.  
17 There are a number of situations where  
18 surrogate data must be used all the time, like  
19 for the medical X-rays. I think what is being  
20 done right now is there is almost never  
21 individual measurements or even workplace  
22 measurements of the dose delivered by a chest

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1 X-ray.

2                   So you are assigning a dose under  
3 an assumption of an annual screening practice  
4 or something like that. Is that correct?

5                   CHAIRMAN MELIUS: That is correct,  
6 and we may have tried to call it Type 2. As I  
7 said, I think it is a gray area, but is easily  
8 interpreted as surrogate data for the Type 1.

9                   MEMBER RICHARDSON: Yes, and it  
10 leads to thinking about one way that dose  
11 reconstruction is being done, which is there  
12 is an average intensity of exposure which is  
13 applied to a group or often to the whole  
14 cohort, and then the exposure that is assigned  
15 to that population is just the integral over  
16 time of that exposure intensity.

17                   So the only distinction that you  
18 are getting between people in the cohort is  
19 length of employment. It sort of parallels, I  
20 think, in Blockson what is done. You say that  
21 there is, either based on surrogate data from  
22 another plant or a model, you are going to

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1 assign an exposure intensity, and then you are  
2 just going to integrate that up, and everybody  
3 is going to get that exposure intensity.

4           That is sort of where I was again  
5 feeling like, okay, you probably can have some  
6 sort of bounding, but where do you stop with  
7 this? You want to have a high level -- you  
8 know, you don't have -- I mean, you could do  
9 this at the Nevada Test Site, too, I suppose,  
10 if you wanted to consider some extremely high  
11 level of average intensity, and then we are  
12 just going to integrate up over that and say  
13 that the maximum exposure somebody got to an  
14 agent. Whether it is inhalation of radon,  
15 inhalation of uranium dust or medical X-ray  
16 exposures. We are going to give an upper  
17 bound of the exposures.

18           So I don't have an answer to that,  
19 but it seemed to me that this question,  
20 really, is pretty much always falling into  
21 these scenarios where you are not going to  
22 actually attempt to do any individual exposure

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1 reconstruction other than just some integral  
2 of their time on site.

3 Maybe you do have examples where  
4 you have finer distinctions than that, but I  
5 haven't seen them.

6 CHAIRMAN MELIUS: That is correct.

7 Any other questions by Board Members? We are  
8 pushing up to lunchtime here.

9 Why don't we actually break for  
10 lunch, and then when we come back, I think we  
11 can briefly talk about some follow-up on the  
12 Surrogate Data Work Group, and I also want to  
13 talk briefly about Texas City and clarify that  
14 from that Work Group, and then we will go on  
15 to our other reports. So let's, I think, come  
16 back at 1:30.

17 MR. KATZ: Thanks, everybody, for  
18 calling in, and we will reestablish the line  
19 at 1:30.

20 (Whereupon, the above-entitled  
21 matter went off the record at 12:02 p.m. and  
22 resumed at 1:34 p.m.)

23

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1 about, well, where has surrogate data been  
2 used, and how has it been used in the  
3 document, and then have them update, then  
4 circulate that to the Board.

5 I think the other issue  
6 outstanding, we have at least two, probably  
7 more, SECs that are, in some ways, awaiting  
8 some resolution by the Board on how we are  
9 going to handle surrogate data.

10 The one that, in some ways, is  
11 immediate -- our next meeting is in Buffalo,  
12 and that is the Bethlehem Steel SEC Petition  
13 that is up.

14 For those of you that are new on  
15 the Board, Bethlehem Steel is particularly --  
16 I won't say particularly. It is somewhat  
17 problematic in the sense Bethlehem Steel, the  
18 use of surrogate data, and the dose  
19 reconstructions done there were done before  
20 the SEC Evaluation regulations were written.

21 So it is out there, and I think as  
22 we were dealing with that issue as a Site

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1 Profile review issue and discussing a number  
2 of changes made in NIOSH's approach for dose  
3 reconstruction there as a result of Board  
4 input, but that was all done without reference  
5 to the possibility they could be in the  
6 Special Exposure Cohort. After that, the  
7 group of workers there or worker  
8 representatives have filed for an SEC  
9 Petition, which was qualified and so forth.

10 So we have not evaluated that  
11 pending the Surrogate Data work Group. I  
12 think it would be helpful to apply our  
13 criteria to that situation there, what is  
14 being done, because it is a use of surrogate  
15 data, and inform that. So we can, hopefully,  
16 try to reach some conclusion on how to deal  
17 with that SEC Petition by our May meeting.

18 I think, in order to do that, I  
19 think SC&A needs to do some -- needs to be  
20 tasked to do that.

21 The other SEC that is potentially  
22 involved here is the Texas City SEC. Again,

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1 that has been on hold for a while pending the  
2 Board reaching some conclusion on how to deal  
3 with surrogate data.

4 The confusion there -- and again,  
5 some of this is also the radon issue, I  
6 believe, there, but it is also NIOSH has sort  
7 of been holding back on their Evaluation  
8 Report, possibly modifying that, pending how  
9 the Board decides to deal with the Blockson  
10 radon issue.

11 Then I heard LaVon say that you  
12 were -- I thought you said you were moving  
13 ahead with a report. So I guess I am trying  
14 to get updated on -- okay.

15 MR. RUTHERFORD: This is LaVon  
16 Rutherford. We actually -- the report is held  
17 up internally, and it is internally because of  
18 the radon modeling and some discussion on  
19 surrogate data --

20 CHAIRMAN MELIUS: Right.

21 MR. RUTHERFORD: -- look back at  
22 ensuring consistency with IG-004.

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1                   CHAIRMAN MELIUS:    Okay.    So that  
2    is still on hold then.    So I think we -- then  
3    in that case, I think we need to move on that,  
4    but I don't think -- it is a little bit  
5    different situation.

6                   So what I would like to do is task  
7    SC&A with the update on their document, the  
8    use and abuse of surrogate data, how it is  
9    being used, and then secondly, look at the  
10   Bethlehem Steel which, I think, would sort of  
11   be a focused SEC Evaluation, because it has  
12   been an extensive evaluation of that situation  
13   already by SC&A.

14                  Why don't we go through the  
15   Subcommittees and Work Group reports.    While  
16   we are doing that, if people can be looking  
17   through just the five letters that have been -  
18   - either four or five -- that have been passed  
19   out.

20                  For those of you that are new on  
21   the Board, our normal procedure, usual  
22   procedure, is that we sort of approve the

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1 motion, and then we do the letter to the  
2 Secretary, and then the Board then approves  
3 the letter. It takes time to write the  
4 letter. This is sort of our standard format  
5 for the letter. When we go into it, I will  
6 explain some of it to you. We go over those,  
7 but you can be looking at those, dangling  
8 participles and other significant -- yes?

9 MR. KATZ: Just one note. For  
10 those of you that have a conflict for a site,  
11 obviously, you don't review that letter, and  
12 you will recuse yourself from that discussion.

13 That is all, but those are relatively brief,  
14 those discussions, and we will bring you back  
15 in.

16 CHAIRMAN MELIUS: Did NIOSH staff  
17 and Emily get the letters?

18 MR. KATZ: Yes.

19 CHAIRMAN MELIUS: Okay, good.  
20 Dose Reconstruction Subcommittee, Mark?

21 MEMBER GRIFFON: Yes. We have had  
22 a meeting since the last Advisory Board

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1 meeting. I think the only one we had was a  
2 telephone meeting, and the main thing to  
3 report, we are continuing on our progress with  
4 the regular case reviews, just out of -- I  
5 think we are up to the 12th set of cases.  
6 Usually, we do pretty much batches of 20.  
7 There is a little variation there, but just  
8 for the new Members, we have done a -- the  
9 first five sets we completed altogether, and  
10 we released the report to the Secretary on the  
11 first 100 cases, to sort of wrap-up findings  
12 from the first 100 cases.

13 We were then asked by the Advisory  
14 Board to the full Board to go back to those  
15 first 100 cases and, given the deficiencies,  
16 make a determination of what impact they had,  
17 and if we had any recommendations at this time  
18 to give to NIOSH as far as program  
19 modifications.

20 So we are in the process of doing  
21 that follow-up, and we have been working with  
22 a couple of, I guess, draft White Papers to

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1 bring back to the Board. At this point, we  
2 have -- we have been looking at identifying  
3 deficiencies or categories of deficiencies  
4 that were considered critical factors in  
5 assuring scientific validity and quality of  
6 dose reconstruction, and got a couple of  
7 categories from those first 100 cases.

8 We need to do some follow-up,  
9 especially on -- we had several findings that  
10 fit into the sort of quality assurance  
11 category, and on the Subcommittee we have  
12 asked SC&A to go back and do a sampling of  
13 some of the cases that involved quality  
14 assurance findings, to sort of do drill-downs  
15 and see what was the nature of the quality  
16 control finding. Was it dose reconstructor  
17 error or was it something more systemic.

18 So we have asked SC&A to do that  
19 follow-up. So our report back to the Board --  
20 we are kind of waiting. We think it would be  
21 much more meaningful if we could include some  
22 of that information in the report. Then we

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1 could have more specific recommendations,  
2 theoretically.

3 The other two areas are  
4 consideration of information from workers, and  
5 this is the CATI. This is the worker  
6 interviews when they do Site Profiles,  
7 different aspects of considering the worker  
8 information.

9 This one, I have to coordinate a  
10 little bit with the Worker Outreach Work  
11 Group, because I think some of the draft  
12 recommendations that I sort of was throwing on  
13 the table at our Subcommittee meeting  
14 overlapped with some things that the Worker  
15 Outreach Work Group is still looking into, but  
16 we have at least identified that as a  
17 category. Once we flesh it out a little more,  
18 we will bring it to the full Board.

19 The last one was case  
20 documentation and reporting, and I think this  
21 speaks to both the DR report from the claimant  
22 standpoint, but also from the auditor's

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1     standpoint, our standpoint in terms of having  
2     a sufficient auditable trail, so to speak,  
3     having the case files including all the work  
4     that makes it something that will last the  
5     test of time and people can go back to these  
6     at a much later date, or if claimants have  
7     expertise, helping them review cases. There  
8     is enough there that they can actually follow  
9     along how the calculations were conducted.

10                   Those were the three categories  
11     kind of. The last thing that we are including  
12     in this letter is -- again, this is a letter  
13     back to the full Board, not to the Secretary.

14     The last thing we are including in this is  
15     some things, areas, that have resulted --  
16     areas of change in NIOSH's program that are,  
17     at least in part, a result of the audit of the  
18     first 100 cases.

19                   For instance, one example would be  
20     the Dose Reconstruction Report format. There  
21     have been some modifications, and they did  
22     that early on. They weren't going to wait for

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1 us to go through 100 cases and do it. They  
2 recognized it early on in the first 30 or 40,  
3 we were having a similar finding several  
4 times, and NIOSH proactively made some  
5 modifications to their report form to the  
6 claimants. So we are also trying to note some  
7 of those.

8 Another area is the Program  
9 Evaluation Reviews. There have been some  
10 Program Evaluation Reviews that -- again, I am  
11 being careful with the words here -- at least  
12 in part were a result of the audit process for  
13 the first 100 cases. So we are going to  
14 identify those and describe what -- so that is  
15 sort of what was the value of doing those  
16 first 100 cases.

17 That report -- hopefully, we will  
18 have that ready for the next probably full  
19 meeting, not the phone call meeting. It might  
20 be ready to bring that back to the full Board.

21 Other than that, we are proceeding  
22 on the case reviews. We are working with the

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1 -- I think we actually wrapped up the sixth  
2 matrix. The seventh and eighth set of cases,  
3 which are all, again, batches of 20, kind of  
4 are in progress, somewhere in our finding  
5 resolution process between SC&A and NIOSH,  
6 which is what we do at the Subcommittee level.

7 I believe all those -- I am asking  
8 now, Ted. All those -- at least the final  
9 matrices and things like that, they are all  
10 available somewhere where the new Board  
11 Members can see them. Right?

12 MR. KATZ: I would have to ask  
13 OCAS about that.

14 MEMBER GRIFFON: I know they are  
15 somewhere on there. We will have to make sure  
16 we can point you in the right direction. At  
17 least for the first five sets, the finalized  
18 report, that's got to be available for new  
19 Members.

20 MR. HINNEFELD: I'm sorry. What  
21 was the question?

22 MEMBER GRIFFON: The matrices of

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1 all the findings, the ones that -- I mention  
2 this, because I was thinking that the new  
3 Members would certainly be interested in  
4 seeing the matrices and how we go through this  
5 resolution process, and I am wondering if  
6 those are collected in any one area on the O:  
7 drive or maybe we need to make that happen.

8 MR. HINNEFELD: We would have to  
9 make that happen. So you are talking about  
10 the first five matrices with the final  
11 resolution?

12 MEMBER GRIFFON: Well, actually, I  
13 need to work with NIOSH on this anyway,  
14 because we have talked about putting an area  
15 similar to the Procedures Work Group, having  
16 an area where we have the findings altogether  
17 in one spot, and possibly in a database  
18 format.

19 So I will keep people apprised on  
20 that one, because I think you need to see that  
21 and see how the resolution process is working.

22 It is sometimes slow, and if there is one

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1 issue that we are all aware of that is there  
2 are concerns going forward, I think, with a  
3 lot of our Work Groups is the sort of tracking  
4 of the findings, because often it will turn  
5 out that the resolution is that NIOSH agrees,  
6 and the procedure is being revised, but that  
7 falls under the Procedures Work Group.

8 So we don't want to shuffle  
9 something to another Committee and forget  
10 about it. We want to make sure it was  
11 completely closed out. So tracking is going  
12 to be an issue going forward for several of  
13 our Committees. I will certainly let people  
14 know where -- when we get this all in one  
15 spot, I will let you know where it is and make  
16 sure it is available for you.

17 CHAIRMAN MELIUS: Thanks, Mark.  
18 Any questions from Board Members? Yes, Paul?

19 MEMBER ZIEMER: Mark, could you or  
20 John remind us where we are on the 12th set of  
21 cases? I believe all of the teams have  
22 reviewed the 11th set, and I believe the 12th

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1 set had been picked.

2 DR. MAURO: The 11th set is  
3 completed and delivered.

4 MEMBER ZIEMER: Right. Is your  
5 team still looking at the 12th set?

6 DR. MAURO: The 12th set, we are  
7 about halfway done with the batch. So, yes, I  
8 would say that it will be a couple of months  
9 before we will be ready for one-on-ones on the  
10 12th set we are on.

11 My guess is the next batch may be  
12 May. It might be put on the agenda to fill  
13 the pipeline up. That will be probably a  
14 perfect time.

15 MEMBER ZIEMER: Well, the reason I  
16 asked that question, we don't have teams  
17 assigned, and this is a good opportunity to  
18 get the new Members now involved on the review  
19 team. So I suggest that --

20 MEMBER ANDERSON: We got the  
21 copies of the 11th emailed to us.

22 MEMBER GRIFFON: You did? Oh,

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1     okay.

2                   MEMBER ZIEMER:     And you have --  
3     Did we assign you to any --

4                   MEMBER ANDERSON:   No.

5                   MEMBER ZIEMER:   No, I didn't think  
6     so. You got the copies, right. I guess you  
7     have the opportunity, if you want it, to  
8     listen in, but we need to make sure, and I  
9     know the Chair will take care of that, but I  
10    just wanted to emphasize it. That is coming  
11    up fairly soon, and not only to see the  
12    previous matrices but now become involved in  
13    reviewing cases.

14                  MEMBER GRIFFON:   Just to be clear  
15    what we are talking about, we have always had  
16    Board teams, two or three individuals, get  
17    case assignments, and we have had the Chair  
18    doing that, because there is the conflict  
19    concern. So we have to kind of sort through  
20    who can be reviewing what.

21                  That is your opportunity to sort  
22    of weigh in on SC&A's findings in a

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1 preliminary fashion. Then SC&A brings all  
2 that information back to the Subcommittee, and  
3 the Subcommittee Members have another crack at  
4 it, along with NIOSH, to discuss it. So that  
5 is sort of how the process has been working.

6 CHAIRMAN MELIUS: Any other  
7 questions for Mark? Wanda, Procedures Review  
8 Subcommittee.

9 MEMBER MUNN: Although we usually  
10 meet every six or eight weeks, we have not met  
11 since November. Both the Agency and the  
12 contractor were heavily involved in activities  
13 preparing for this particular meeting we are  
14 in today, and so we did not meet in January,  
15 as we ordinarily would.

16 November was our last meeting. We  
17 are now scheduled to meet immediately  
18 following the Dose Reconstruction  
19 Subcommittee's meeting on March 23, I believe  
20 it is, in Cincinnati.

21 Our letter to Secretary Sebelius  
22 giving a report on -- our second annual report

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1 of our activities, as you approved it during  
2 our Port Jefferson meeting, was mailed on  
3 January 29 and is now gone.

4 We have somewhere between 15 and  
5 20 very specific issues that we have  
6 outstanding and are in various degrees of  
7 being resolved between NIOSH and SC&A.

8 At our last meeting, we spent just  
9 about half the day, possibly even more than  
10 that, wrestling with the issues that are  
11 surrounding PERs and how they need to be  
12 handled.

13 SC&A has given us their review of  
14 potential protocol, and we are going to have  
15 to work through how we approach these, simply  
16 because they involve a lot of cross-  
17 responsibilities with the Dose Reconstruction  
18 Subcommittee. So that will be a major issue  
19 on our upcoming agenda. We are going to have  
20 to do that.

21 If you would like to take a look  
22 at where we are, I have -- hold on just a

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1 moment, I am going up to the podium. I had  
2 thought we might want to take a look again at  
3 our spread of information with respect to  
4 where our cases are.

5           You have seen this before. This  
6 is what is on the database right now, the  
7 status of all of the procedures at which we  
8 are looking. As you can see, we have a total  
9 of 538 total findings that we are dealing  
10 with, of which we still have 104 open, which  
11 means they have not been addressed yet.

12           The others, we are addressing in  
13 some fashion. We have closed almost half of  
14 the findings that have been placed before us,  
15 but we are not quite there yet.

16           We are hoping that in the next  
17 couple of meetings, we will be able to move  
18 through some of those fairly quickly, because  
19 we are close on a half-dozen or so.

20           So this material, the data that  
21 you see here, is accessible to you through the  
22 database on O: drive. If you don't know how

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1 to get to it and want to get to it, I can give  
2 it to you.

3 It is not ordinarily updated  
4 except during our meetings, at which time we  
5 try to keep our database literally as close to  
6 today's findings as possible, but of course,  
7 these things are only closed in our meetings  
8 or when we bring something specifically to  
9 you.

10 So that is all I have unless you  
11 have questions.

12 MEMBER ANDERSON: What is the  
13 findings? I mean, to go to this table, how do  
14 I see what you are really looking at?

15 MEMBER MUNN: In order for you to  
16 see what I am really looking at, you will have  
17 to go to the full database, and in our full  
18 database you would need to sort.

19 If you want a little tutorial on  
20 how to do that, Henry, I will be glad to do  
21 that for you offline, or any of the other new  
22 Members who are interested in doing that. We

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1 can give you some written instructions, if you  
2 would like. Once you are a little more  
3 familiar with the O: drive, you can get to it.

4 What those indicate is groups of  
5 specific procedures that had a number of  
6 findings in each case, and the individual  
7 findings are listed on the left side. That is  
8 not the number of procedures we are looking  
9 at. It is the number of findings.

10 MEMBER ANDERSON: I know, but  
11 where does one get what the procedure is and  
12 what the findings are?

13 CHAIRMAN MELIUS: That is the full  
14 database.

15 MEMBER MUNN: That is the full  
16 database that lists everything on it, and  
17 needs to be sorted to find what you want at  
18 any given time. We can show you how to do  
19 that.

20 CHAIRMAN MELIUS: And there are  
21 periodic reports from SC&A.

22 MEMBER ANDERSON: That is what I

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1 thought. That is what I meant.

2 CHAIRMAN MELIUS: They are  
3 compiled, and then -- but the database doesn't  
4 -- correct me if I am wrong, Wanda, which I  
5 know you will. It just sees where we are in  
6 terms of resolving the findings between SC&A  
7 and NIOSH under the direction of the  
8 Procedures Subcommittee.

9 MEMBER MUNN: Right.

10 CHAIRMAN MELIUS: Did I get it  
11 right, Wanda?

12 MEMBER MUNN: You got it right.

13 CHAIRMAN MELIUS: Hey, you taught  
14 me well.

15 MEMBER MUNN: Gold star for the  
16 Chair. Thank you.

17 CHAIRMAN MELIUS: Any other  
18 questions for Wanda? Brookhaven, Josie?

19 MEMBER BEACH: Brookhaven, as you  
20 recall, in October we tasked SC&A to do a  
21 focused review for that Evaluation Report. At  
22 this time, it is with DOE. Once it has been

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1 released, then I will work with Ted and the  
2 other Work Group Members to schedule a  
3 meeting.

4 CHAIRMAN MELIUS: So you expect a  
5 meeting between now and May?

6 MEMBER BEACH: Well, it depends on  
7 how long that report is with DOE, and maybe  
8 Joe might have a better idea of how long until  
9 that report is released from DOE.

10 MR. FITZGERALD: I don't think it  
11 is going to take very long.

12 MEMBER BEACH: So once that is  
13 complete, we will talk to Ted.

14 CHAIRMAN MELIUS: Okay. Fernald?

15 MEMBER CLAWSON: The Work Group -  
16 - we met January 29, 2010. We have basically  
17 got six outstanding issues that we are dealing  
18 with, bioassay data, to assure that the  
19 database that they are using can be used for a  
20 coworker model.

21 NIOSH and OCAS has recently put  
22 several papers on, ranging from radon for body

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1 burden and thorium body burden. SC&A is  
2 reviewing those, and several other issues with  
3 K-65, and one of the ones that you heard last  
4 night that a Fernald individual brought up is  
5 how this would work -- the coworker model  
6 would work for the construction workers. This  
7 has been tasked to NIOSH and SC&A, and we are  
8 waiting to hear back from them.

9 CHAIRMAN MELIUS: Any questions  
10 for Brad? Hanford -- I am Chair of the Work  
11 Group for Hanford.

12 At the last meeting before this  
13 one, we approved a large petition to the SEC  
14 Cohort for Hanford as a result of sort of a  
15 reevaluation by NIOSH, and a lot of new data  
16 that they collected from Hanford on that site.

17 So in response to that, we have --  
18 the Board approved NIOSH's recommendation on  
19 that. So that has moved forward. We now have  
20 to sort of revise our issues matrix, which  
21 Arjun has done, and I think we are just sort  
22 of waiting on NIOSH, some other work to go on.

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1           I don't know if, Sam and Arjun, if  
2   you want to give us a brief update on where  
3   that is.

4           DR. GLOVER:   Yes.   As I have been  
5   speaking with Arjun, essentially we have  
6   completed our research, focusing a lot mostly  
7   on 1972.   It is essentially in the Board's  
8   hands at this time.   We are working on the  
9   matrix, and there are a few data captures that  
10   are open, and we are interacting with SC&A.  
11   So they are fully aware of that.   I am also in  
12   the process of updating the Advisory Board's  
13   website, so you have access to our previous 28  
14   data capture efforts.   So you will have all  
15   that information, so you can proceed.

16           CHAIRMAN MELIUS:   Okay.   Thank  
17   you.   Arjun.

18           DR. MAKHIJANI:   Yes.   We haven't  
19   had a three-way conversation since NIOSH has  
20   put up their revised Site Profiles to reflect  
21   all of the recent information, and basically,  
22   as I understand our informal conversations,

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1 that NIOSH is essentially saying the rest are  
2 Site Profile issues, and we are going to  
3 review, if we have SEC issues, they will come  
4 up as part of our review of the revised Site  
5 Profiles.

6 So, basically, as I understand it,  
7 going forward we are going to follow the  
8 matrix issues through the revised Site  
9 Profiles from 1972 onward. I have got to  
10 create a work plan for our team and run it by  
11 you.

12 CHAIRMAN MELIUS: Okay. Thank  
13 you. Idaho. Phil.

14 MEMBER SCHOFIELD: A couple of  
15 things. One, we are trying to get a tour set  
16 up before the meeting in Idaho for the full  
17 Board.

18 The other thing is there has been  
19 some movement on the Idaho and Argonne  
20 National Labs West information. Pete Darnell  
21 will give us an update.

22 MR. DARNELL: My name is Pete

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1 Darnell. With Idaho, the Oak Ridge Associated  
2 Universities has updated the issues matrix for  
3 SC&A, and it is currently under review at  
4 OCAS. Once we get that, we will be turning it  
5 over to SC&A to update responses.

6 We have also received from Oak  
7 Ridge Associated Universities the internal and  
8 external Technical Basis Document sections.  
9 The internal section has been reviewed by  
10 OCAS, and comment resolution is in process.  
11 The external Technical Basis Document is still  
12 under review.

13 That is pretty much where things  
14 stand. We expect more sections of the  
15 Technical Basis Document in accordance with  
16 the procedures in our Gantt chart over the  
17 next couple of months.

18 CHAIRMAN MELIUS: Any questions on  
19 Idaho? For that matter, Hanford? I realize  
20 that I tried to avoid questions myself there.

21 MR. DARNELL: One thing I forgot  
22 to mention, the Idaho update Technical Basis

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1 Document update is also the Argonne national  
2 Laboratory West update. Those two sites are  
3 being combined.

4 CHAIRMAN MELIUS: And that has  
5 been part of the hold-up in moving us forward.

6 Good. Thank you. Linde.

7 MEMBER ROESSLER: We have had two  
8 Work Group meetings since the last Board  
9 meeting. The first one was face to face in  
10 Cincinnati, and there are two things from that  
11 I will mention.

12 One might be of interest to the  
13 Outreach Group. Our claimant's  
14 representative, [identifying information  
15 redacted], had mentioned earlier that it is  
16 very difficult for the claimants to read the  
17 documents that are put out by NIOSH and SC&A.

18 Intentionally, they go into a lot of  
19 scientific detail and so on.

20 She said it would be very helpful  
21 if a summary of the Evaluation Report could be  
22 written so the claimants could understand the

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1 whole process better.

2 Chris Crawford from NIOSH, who is  
3 our Linde NIOSH person, wrote about a three  
4 and a third page summary of the Linde ER,  
5 which I think was very helpful. [identifying  
6 information redacted], I think, was pleased  
7 with it. In fact, I find as a Work Group  
8 Member it is helpful myself. That might be  
9 something other groups would want to look at  
10 doing.

11 The other thing at that meeting in  
12 December, SC&A agreed -- we had resolved all  
13 the issues that we had on the table. SC&A  
14 agreed that NIOSH's approach to bounding doses  
15 was satisfactory. However, at that meeting  
16 [identifying information redacted] brought up  
17 some other issues.

18 We had some other discussions. So  
19 we decided to have another Work Group meeting  
20 by teleconference, which we did on January  
21 25th.

22 We went over these issues. A

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1 number of them were raised by the claimants,  
2 in fact. So we still have a few more things  
3 to do. NIOSH has a list of a few things to  
4 accomplish. SC&A is supposed to look at a few  
5 more things that NIOSH has done, just to see  
6 that they feel that they are done  
7 appropriately.

8 So our goal is to have another  
9 Work Group meeting, and then at the May  
10 meeting, Board meeting in Buffalo, which is  
11 in the Linde territory, [identifying  
12 information redacted] is hoping that we will,  
13 as a Work Group, come and present our  
14 findings. So I hope we can pull these last  
15 things together and present to you our Work  
16 Group's conclusions.

17 CHAIRMAN MELIUS: Okay. Any  
18 questions for Gen? Yes, Brad?

19 MEMBER CLAWSON: Just one thing  
20 that I was thinking when she was talking about  
21 that brief rundown. Ted has requested that  
22 SC&A and NIOSH, after each Work Group, that

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1 they give a brief summary of what the issues  
2 are and so forth. I received mine from John.

3 Just in short sentences, it is kind of  
4 telling what the issue is and where they are  
5 going with it, and I found that quite  
6 interesting. It may be able to help them a  
7 little bit.

8 MR. KATZ: Yes. These are the  
9 action items. So we agreed, and OCAS as well,  
10 that SC&A and OCAS after every meeting would  
11 issue as quickly as they can the action items,  
12 just so that everybody is clear about who is  
13 doing what.

14 MEMBER ROESSLER: In our Work  
15 Group, SC&A's Steve Ostrow has done a very  
16 good job of keeping track of everything we do  
17 on a nice table in very understandable format.

18 CHAIRMAN MELIUS: Good. Thank  
19 you, Gen. Los Alamos.

20 MEMBER GRIFFON: Los Alamos is, I  
21 guess, the only -- right now, the ball is in  
22 SC&A's court, really. SC&A is reviewing

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1 NIOSH's Evaluation Report, and they did --  
2 since the last meeting, my understanding is  
3 that Joe and the team went out and did some  
4 interviews as well as some classified  
5 documents review for about a week.

6 I am not sure if you have the  
7 timing on when you might be ready, but as soon  
8 as they come out with their report, then we  
9 will schedule a Work Group meeting, but we  
10 haven't met yet.

11 So, I don't know, Joe, if you have  
12 a time frame on that.

13 MR. FITZGERALD: We just got the  
14 redacted notes back on the interview about two  
15 weeks ago. So we are going through and doing  
16 summaries of that. So I think we are getting  
17 relatively close to having a response, a first  
18 response. We have two on-site reviews, a lot  
19 of interviews, a classified review, and we had  
20 -- I think ORAU staff was on that site visit.  
21 So I think we are getting close, another  
22 month or so.

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1                   MEMBER GRIFFON:    So we may be able  
2   to schedule a meeting before the May full  
3   Board meeting.

4                   CHAIRMAN MELIUS:    Thank you.    Any  
5   questions for Mark?   Okay.   Mound?   Josie.

6                   MEMBER BEACH:     Thank you.    Mound  
7   last met for a two-day meeting in January on  
8   the 5th and the 6th.   Of the 16 remaining  
9   issues, the Work Group has unanimously agreed  
10  to close the following matrix items, Issue 13,  
11  which is the buried records.   This was an  
12  issue specifically addressed in the petition  
13  related to the burial of Mound records at Los  
14  Alamos and the Nevada Test Site.

15                   Issue 16 was our R-beta shallow  
16  dose issue, and also 21, the PAAA violations  
17  where inadequate bioassay sampling was done.  
18  This issue is being addressed further under  
19  Issue 11 and 12.   That is our adequacy and  
20  completeness of internal dose.   So while that  
21  is closed, we will still have some issues to  
22  follow-up on.

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1           The Work Group has assigned  
2 actions to the following issues, Issue 9 is  
3 the high-fired Pu-238. NIOSH is reviewing the  
4 Type L versus Type J solubility models as  
5 bounding options, and it will establish for  
6 the Work Group what approach will be taken for  
7 dose reconstruction and the rationale behind  
8 it.

9           What we call the Roadmap is an  
10 integrated issues 1, 3, 4, 7 and 8. The Work  
11 Group has agreed that the Roadmap mirrors the  
12 King report and is not responsive to original  
13 data adequacy issues. These issues are being  
14 addressed again under Issues 11 and 12.

15           Issue 10 is the D&D era. NIOSH  
16 will review and report back to the Work Group  
17 the availability of information regarding rate  
18 of conformance by former D&D workers for  
19 providing termination bioassays upon departure  
20 from Mound work sites.

21           If the information is available  
22 and the rate of conformance is low, we will

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1 have to determine the feasibility of  
2 conducting validation reviews of the internal  
3 dose, coworker model application to D&D  
4 workers.

5 These topics are SEC relevant  
6 issues remaining that have been addressed --  
7 or, excuse me, have been assigned actions from  
8 the Work Group for both NIOSH and SC&A.

9 The first one is Issues 14 and 15,  
10 neutron dose reconstruction. Concerns remain  
11 over NIOSH's use of the MCNP model application  
12 and the validity and application of NIOSH's  
13 coworker dose data in NIOSH's dose  
14 reconstruction approach.

15 The next one is Issue 6, the  
16 stable tritium compounds. A secure meeting  
17 has been scheduled for February 18th to review  
18 classified documents pertinent to establishing  
19 scope of workers potentially exposed to Type S  
20 tritides.

21 Based on the results of that  
22 meeting, we are going to establish for the

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1 Work Group what approach will be taken for  
2 dose reconstruction for both Type S and the  
3 intermediate solubility of the STCs.

4 The other one is Issue 11 and 12,  
5 adequacy and completeness of internal dose.  
6 More work is needed to identify and  
7 substantiate radionuclides for which exposure  
8 potential existed, but where bioassay data is  
9 lacking.

10 We need to define a basis for  
11 judging exposure potential and whether NIOSH  
12 can still reconstruct the missing doses with  
13 sufficient accuracy.

14 There is one last topic, and I was  
15 hoping maybe Jim would mention this at this  
16 meeting. I am not sure if he can speak on it,  
17 but SEC actions under consideration, Issue  
18 Number 2, was our radon issue, and NIOSH is  
19 working with DOL on a proposed scope of the  
20 postulated SEC.

21 I didn't know if you would want to  
22 mention anything more on that.

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1 DR. NETON: LaVon might be able to  
2 fill in a little more detail, but we had  
3 identified in the review of the petition a  
4 portion of the time where radon couldn't be  
5 reconstructed at the Mound Site.

6 That was a very unusual  
7 combination of events that occurred that had  
8 exposure potential to these three different  
9 isotopes of radon gas, radon-219, radon-220  
10 and radon-222 in extremely large  
11 concentrations.

12 So because of that, we are going  
13 to modify our Evaluation Report to recommend  
14 addition of a separate Class of workers for  
15 that one facility for -- I believe it is one  
16 building. I forget which building it is now,  
17 but this is a very confined exposure to one  
18 building, and we feel that those workers could  
19 be adequately identified as to who was in  
20 those buildings.

21 MEMBER BEACH: And I believe it  
22 was possibly two buildings, but that hasn't

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1       been worked out.

2                   DR. NETON:    Yes, I think they were  
3       somewhat connected by some kind of walkway.  
4       There may be two buildings.

5                   MEMBER BEACH:   Right.    Yes.    so,  
6       hopefully, we will be hearing from NIOSH on  
7       that soon.  That is all I have.

8                   CHAIRMAN MELIUS:    Questions for  
9       Josie?  Nevada Test Site?  We have heard from  
10      them yesterday.

11                  MEMBER PRESLEY:    As everybody  
12      knows, we did get our SEC passed yesterday.

13                  One thing that I would like to  
14      bring up today to see if we could go ahead and  
15      vote on is the NTS Site Profile.

16                  MR. KATZ:        Bob, can you speak  
17      closer to the microphone, please?  Thanks.

18                  MEMBER PRESLEY:    One thing that I  
19      would like to bring up today and vote on was  
20      the Board accepting the NTS Site Profile.

21                  In the last three or four years,  
22      NIOSH has made a tremendous amount of changes.

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1 We have gotten a lot of feedback from SC&A.  
2 Their changes have been implemented. The Site  
3 Profile, about six or eight items have been  
4 rewritten and implemented.

5 What I would like to do is make a  
6 motion that we accept the Site Profile as it  
7 stands today. Everybody needs to realize that  
8 this is a living document, and as changes come  
9 up and as information comes up, it will be  
10 added in.

11 The one thing that the Working  
12 Group would ask is that, when things of this  
13 nature happen, that we are immediately  
14 apprised of the change so that, if it is  
15 deemed that we need to go back and re-look at  
16 this, that we will have the chance to comment  
17 and so that things don't fall by the wayside.

18 That is all I have, but I think we  
19 do need to go ahead and accept the Site  
20 Profile as it is today.

21 CHAIRMAN MELIUS: Bob and I talked  
22 about this a little yesterday. It was sort of

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1 in the context of more disbanding the Work  
2 Group, because there is no activity for the  
3 Work Group going forward.

4 In the promise Bob sort of puts it  
5 is, yes, the Site Profile keeps changing, to  
6 some extent. I guess the question would be --  
7 I guess one is we can sort of disband the Work  
8 Group or put it in mothballs or something,  
9 whatever.

10 I don't know how people feel about  
11 accepting a Site Profile review that they  
12 aren't really -- isn't in front of them to  
13 see. That would be my question. I don't want  
14 to force that issue, and I don't know that we  
15 really have a procedure for this. In fact,  
16 Mark reminded me that there are some old, real  
17 old, Work Groups that dealt with some SEC  
18 issues, and we have sort of don't have any  
19 Site Profile -- a Work Group to really deal  
20 with some of the Site Profile issues.

21 Any comments? Yes, Brad?

22 MEMBER CLAWSON: Part of my issue

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1 is and what I am nervous about is I understand  
2 that the Site Profile is a living document,  
3 but as a Work Group I don't know how it is  
4 going to work, because -- I wonder how it is  
5 going with Rocky Flats, because there is a lot  
6 of changes. It seems like Mark is kind of  
7 spearheading quite a few of those, since the  
8 SEC kind of stopped.

9 I don't want to lose so many --  
10 anything, because there's many things that are  
11 still going on, like [identifying information  
12 redacted] said yesterday, with Yucca Mountain  
13 and the 25 Area of how this is going to work  
14 in and so forth, like that.

15 I would like to be able to somehow  
16 make sure that we are still in the loop for  
17 these issues that come up with Nevada Test  
18 Site. That is the only thing I am nervous  
19 about.

20 CHAIRMAN MELIUS: Jim?

21 DR. NETON: I would just like to  
22 make a couple of comments. I see Bob Presley

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1 stepped out for a second. So, hopefully, he  
2 will be able to -- well, I'll repeat when he  
3 comes back, I guess.

4 We are certainly going to have to  
5 revise the Site Profile now to pull out all  
6 the internal monitoring reconstruction or  
7 basically to revise it, so that we don't do  
8 internal dosimetry calculations through 1992  
9 now. So all of those findings related to  
10 internal dosimetry prior to '92 go away. I  
11 mean, we have agreed that we can't do dose  
12 reconstruction.

13 So what is left, or the balance of  
14 what is left is the external dosimetry  
15 reconstructions through '92, and then full  
16 dose reconstructions after '92. But we have  
17 not revised the Site Profile.

18 We have agreed in principle with  
19 SC&A on virtually all the remaining issues, to  
20 my knowledge, but we have not yet produced the  
21 final report that contains that -- those  
22 agreed upon paths forward, if that is helpful.

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1                   CHAIRMAN MELIUS:    So that would be  
2   that there is -- if I understand you, there  
3   would be some point in the future -- I want to  
4   say near future, but I don't want to try to  
5   pin you down, but that there would be a  
6   revised Site Profile that would address all  
7   these issues in the context of what has been  
8   approved for the SEC and so forth, and then  
9   there would really be a need to review and  
10  ascertain that that --

11                   DR. NETON:    I would think so.

12                   CHAIRMAN MELIUS:    Yes.    Then I  
13  guess the question would be whether we  
14  maintain the same Work Group and have it ready  
15  to do things or do we try to come up with a  
16  new Work Group or wait until the time?  I will  
17  ask you, what is the time frame for that,  
18  because I guess that would make a difference  
19  in terms of --

20                   DR. NETON:    I have learned my  
21  lesson not to give very definite time  
22  schedules.  I really can't say when it is

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1 going to be done. I would have to confer with  
2 others who are more privy to the schedule than  
3 I am.

4 CHAIRMAN MELIUS: That is fine,  
5 Jim. Other Board Members? Bob, while you  
6 were out, Jim sort of updated us. They are  
7 revising the Site Profile. I think there is  
8 general agreement there would be possibly some  
9 need or probably some need to review the  
10 revisions, see do they address all the issues  
11 satisfactorily. I guess the question is do we  
12 disband the Work Group while NIOSH is doing  
13 that, then maybe reconvene it in some way at  
14 the time, or what.

15 MEMBER CLAWSON: Maybe we could  
16 put it in emeritus status or something.

17 CHAIRMAN MELIUS: We have some  
18 that are -- the Security one.

19 MEMBER PRESLEY: I just want  
20 everybody to understand, you know, that when  
21 we were tasked with this, what we were tasked  
22 with doing was taking care of the Site Profile

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1 and the SEC.

2 CHAIRMAN MELIUS: And I think we  
3 can say, up to date, you have taken care of  
4 those two overarching tasks, and now there is  
5 maybe a third task coming up, which will be  
6 the Site Profile revision, which will reflect  
7 what has happened so far. Why don't we just  
8 say it is on, have a latent or whatever we  
9 want to call it, Work Group. Thank you.

10 MEMBER ZIEMER: Did I understand  
11 from Dr. Neton that the only change would be  
12 to basically remove or change that part of the  
13 internal dose calculation in accordance with  
14 what basically has been agreed to?

15 DR. NETON: No. There will also  
16 be some changes that we have agreed to through  
17 the Working Group process in the external  
18 dosimetry area as well. Like I said, we have  
19 agreed in principle through these Working  
20 Group deliberations on the path forward, but  
21 we have yet to revise the Site Profile to  
22 completely address our proposed path forward.

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1                   MEMBER ZIEMER:       Okay, but in  
2       essence all the proposed changes are things  
3       that have been agreed to.

4                   DR. NETON:    Correct.

5                   MEMBER ZIEMER:    So the only point  
6       in the review, as I could see it so far, would  
7       be simply to confirm that those have actually  
8       occurred.    So it would not be -- it is not  
9       like you are completely revising things now.  
10      All the revisions in principle have been  
11      agreed to.

12                  DR. NETON:    Correct.

13                  MEMBER ZIEMER:    Thank you.

14                  CHAIRMAN MELIUS:   Pantex?

15                  MEMBER BEACH:    So do we need to  
16      pull that motion from the table or table it,  
17      because he did make a motion.

18                  MEMBER PRESLEY:    It was never  
19      seconded.

20                  CHAIRMAN MELIUS:    It was never  
21      seconded.

22                  MEMBER BEACH:    Oh, so it doesn't

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1 matter? Okay. Thank you.

2 MEMBER CLAWSON: At the request of  
3 the petitioners -- they have been getting many  
4 different conflicting information on Pantex.  
5 So they asked me, instead of just saying that  
6 we haven't met, that I kind of lay out where  
7 the issues are at and where we are, and I want  
8 to make something clear.

9 This is not to point blame or to  
10 say anything. I know that Stu has stepped  
11 into this position and has inherited a lot of  
12 these things, but this is more so the  
13 petitioners know exactly where we are at, and  
14 as requested. As they said, it might be a  
15 good idea, Brad, if you write this stuff down  
16 so you don't get lost.

17 So here is where we are at. Just  
18 so you know, Pantex Evaluation was issued by  
19 NIOSH in December 2008. The Board asked me  
20 and my Working Group to review the ER back  
21 then. Petitioners and members of the public  
22 are increasingly asking me what is happening,

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1 why no findings, no recommendations have been  
2 rendered to date in the Board's review after  
3 some 14 months after the SEC was filed.

4 Quite frankly, I share their  
5 concerns. Since the ER was issued and SC&A  
6 presented in the early 2009 what it considered  
7 to be the key SEC issues, the Work Group and  
8 NIOSH have not been able to meet and have not  
9 even been able to tour the site.

10 Why are many of these reasons?  
11 One of the ones that is a big one is security,  
12 which we understand and we accept from our  
13 national security standpoint. However,  
14 security alone is not the only issue.

15 The tour that I mentioned has been  
16 requested for over a year and a half and has  
17 been under consideration by both DOE  
18 Headquarters and Pantex during that time.  
19 Simple interview notes have taken over six  
20 months to clear and to be returned to SC&A,  
21 and even in some standpoints longer.

22 Each on-site visit requires a lead

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1 time of about three months. Workers are  
2 apprehensive about being interviewed at  
3 Pantex, which I would like to thank DOE for  
4 issuing a letter on worker retaliation, which  
5 I hope will bring a little bit of peace to the  
6 workers.

7 A list of issues were identified  
8 by SC&A in its 2007 Site Profile and has been  
9 carried forward into the March 2009 Issue  
10 Matrix. To date, despite repeated requests by  
11 me, no cleared response has been forthcoming  
12 from NIOSH. Apparently, the Work Group cannot  
13 meet at this time until we have these back.  
14 This is why the Work Group has not been  
15 meeting.

16 The bottom line is that Pantex SEC  
17 review is hardly off to square one due to the  
18 proceeding implementations at times dragging  
19 on. It is incumbent on the Board to press  
20 both agencies of DOE and NIOSH to respond in a  
21 timely manner. However, at this pace the  
22 Pantex review -- and these are just my

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1 calculations -- may take well over the three  
2 to five years if we don't get under it a  
3 little bit better.

4 At this time, Stu has told me that  
5 we have a review that is finally being sent  
6 back to us, but at this time I still have not  
7 received anything.

8 I hope that this allows the  
9 petitioners to understand what many of our  
10 problems are and that we are trying to deal  
11 with these things. That's it.

12 CHAIRMAN MELIUS: Any comments,  
13 Stu, updates?

14 MR. HINNEFELD: Well, just a  
15 little bit in terms of our -- I believe the  
16 product that Brad is talking about is our  
17 response to the findings. I believe these are  
18 the Site Profile findings. Isn't that right?

19 MEMBER CLAWSON: And there was SEC  
20 issues. When we first started out, it was the  
21 Site Profile, and the SEC came. So they kind  
22 of are combined.

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1                   MR. HINNEFELD:    So that they are  
2    combined.    Okay.    Our response -- the way the  
3    process works on these is that, when the team  
4    responding to those findings prepares their  
5    product, their initial product, that goes to  
6    the Department of Energy for clearance for  
7    sensitive material before anybody else, even  
8    in the project, sees it.

9                   So there was some amount of time,  
10   and then there was a double clutch on the  
11   preparation of that, because as the team was  
12   preparing the response, in the middle of the  
13   preparation we received a large number of  
14   documents that we had requested from our site  
15   research like months earlier from the  
16   Department of Energy.

17                  So once we received those, then we  
18   looked at those, and we felt that they would  
19   either change or strengthen our responses.    So  
20   that then delayed the response some more.    The  
21   preparation of the response took longer.

22                  That response has been reviewed

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1 now and released. You will recall that that  
2 was the team's initial draft of the response,  
3 and it came to us to review, and we felt that  
4 there should be some strengthening of it. So  
5 we made some comments, and those comments are  
6 now being resolved.

7 I would think that it is not that  
8 far from being available, but our experience  
9 has been that this has been a really tough  
10 site to keep things moving through. So I  
11 don't really have a prediction for a date  
12 right here today.

13 MEMBER CLAWSON: And I just wanted  
14 to make sure, because the petitioners -- you  
15 know, many times when they have called in, and  
16 this is why they asked that I do this, is  
17 because they get conflicting points. They  
18 want to know what is going on, and I really  
19 don't blame them.

20 As I wrote this down, I forgot one  
21 thing. I already talked to Stu about it  
22 earlier, but that is the data retrieval plan

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1 that we still to date have not seen, and per  
2 the procedures we are supposed to both be  
3 issuing these, so that both sides know what we  
4 have.

5 I talked to Greg and Regina before  
6 they left, and I have made them very much  
7 aware of where we are at. They have promised  
8 me that they are starting somewhat of a new  
9 process, that whenever anything goes into  
10 Pantex, requests and so forth, that they will  
11 also go to DOE headquarters to somewhat assist  
12 with this. But this is dragging on.

13 CHAIRMAN MELIUS: Thank you, Brad.  
14 Questions for Brad? I would just add, as I  
15 have said, I think, many times now, I just  
16 question whether, given the nature of the  
17 security issues with Pantex, whether we can  
18 have a meaningful and appropriate SEC  
19 evaluation process. Let's see where we are by  
20 the next meeting.

21 MEMBER CLAWSON: I am giving it my  
22 best shot.

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1                   CHAIRMAN MELIUS:       We understand  
2     that, and I think NIOSH and everybody and,  
3     hopefully, DOE headquarters is going to step  
4     in a little bit more on that.

5                   Pinellas.

6                   MEMBER SCHOFIELD:       We still  
7     haven't had a meeting, and right now we are  
8     still on schedule.     Hopefully, we will be  
9     ready by August.     It is way down in the queue.  
10    Because of all these SEC Petitions, NIOSH has  
11    been quite busy, but they are still hopeful  
12    that maybe by August we will be ready.

13                  CHAIRMAN MELIUS:     Okay, thank you.  
14    Piqua Power Reactor.   John?

15                  MEMBER POSTON:     The Piqua Working  
16    Group was established at our last meeting, and  
17    consists of Phil Schofield, mark Griffon, and  
18    Bill Field, and myself.

19                  I was advised not to have a  
20    meeting until our new Members were baptized in  
21    fire.   So we will try to have a meeting soon.

22    We do not have anyone from SC&A appointed to

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1 the Working Group so far.

2 I think the first meeting will  
3 probably be a telephone conference, because we  
4 need to sort of outline how we are going to go  
5 about it, and I think the expense of traveling  
6 to Cincinnati and holding a face to face  
7 meeting is probably not justified. So I will  
8 be contacting the Members, and we will try to  
9 have a teleconference.

10 CHAIRMAN MELIUS: Okay. Thanks,  
11 John. SC&A can get somebody assigned. You  
12 don't need to -- just do it, unless you have  
13 something else.

14 DR. MAURO: This is one of the --  
15 a bit unusual in terms of the process. I just  
16 want to make sure I understand.

17 SC&A is not to take any action in  
18 terms of reviewing the Piqua material until  
19 the Work Group meets. As long as you are in  
20 that position, I am going to be the person.  
21 So just let me know when you want to get  
22 together, and I will certainly bring aboard

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1 other Members.

2 So as of this date, we have not  
3 billed an hour to Piqua.

4 MEMBER POSTON: I wanted to give  
5 especially Bill a chance to read the report  
6 that was issued at the last meeting, and then  
7 for the four of us to get together and talk  
8 about what we think needs to be done and how  
9 to proceed.

10 CHAIRMAN MELIUS: That is fine,  
11 and helpful. Now we've got an SC&A contact.  
12 So we have accomplished something.

13 Rocky. Mark?

14 MEMBER GRIFFON: Rocky Flats is  
15 essentially inactive. We do have open Site  
16 Profile issues, though. So we are not  
17 complete with our work, but have really been  
18 trying to resolve this implementation of the  
19 Class issue before we move forward with any of  
20 the Site Profile -- outstanding Site Profile  
21 issues.

22 So we are still waiting for

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1 information from DOL on that, and you heard  
2 the brief report two days ago that they are  
3 still working with University of Colorado  
4 database. They are considering that and its  
5 impacts on the implementation of the Class as  
6 established.

7 So we will schedule a Work Group  
8 meeting soon. I know there are lots of other  
9 priorities, but we haven't forgot about  
10 closing out the Site Profile issues.

11 CHAIRMAN MELIUS: Santa Susana,  
12 Mike Gibson.

13 MEMBER GIBSON: Yes. Dr. Melius,  
14 we have not met recently. Dr. Hughes is  
15 providing periodic updates on OCAS response,  
16 and the last indication from OCAS is that they  
17 should be ready to have a meeting sometime in  
18 the April time frame.

19 CHAIRMAN MELIUS: Okay, excellent.  
20 Any questions for Mike? Okay, thanks, Mike.  
21 Savannah River?

22 MEMBER GRIFFON: Yes, Savannah

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1 River, we did have a Work Group meeting. If  
2 you remember, the last couple of reports I  
3 have given, NIOSH was in the process of  
4 getting quite a bit more data, especially  
5 related to thorium exposures.

6 They have that data now, and along  
7 with several other -- I won't list them all,  
8 but there are several other radionuclides  
9 where they are going to have to do coworker  
10 models. They believe they can accomplish the  
11 coworker models, but they are still pulling  
12 this data together.

13 They did at the last Work Group  
14 meeting give us a time line. I believe most  
15 of those coworker models will be completed by,  
16 at least according to the time line, if my  
17 memory serves me, sometime in May/June time  
18 frame of this year.

19 So we are waiting to reconvene  
20 until some of these outstanding actions are  
21 further along, but we did have a Work Group  
22 and made some progress.

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1           We also have an open issue on data  
2           adequacy that we are looking into, and  
3           construction worker model, and I think that is  
4           a quick summary of where we are at, but the  
5           Work Group continues to work.

6           I guess I will make -- one note on  
7           this is that we do want to strike while the  
8           iron is hot, so to speak, with Savannah River.

9           We had a Work Group meeting -- well, I don't  
10          know if that was the right term, but we -- I  
11          guess keep the momentum is more the phrase I  
12          am looking for.

13          The last Work Group meeting --  
14          when we have these things spaced so far apart,  
15          we find ourselves going over the same ground  
16          again and again, and to the extent we can -- I  
17          know we have -- the problem now is we have so  
18          many SECs in front of us, and major sites, but  
19          my goal is to keep the momentum with Savannah  
20          River. So working closely with Tim Taulbee to  
21          do that.

22                           CHAIRMAN MELIUS:        Thanks, Mark.

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1 SEC Issues? This is my Work Group.

2 We had a meeting last Friday  
3 regarding two particular issues for that  
4 meeting. One was the Dow Madison Site, which  
5 had been assigned to that group. We have a  
6 number of issues there. We are basically  
7 trying to outline what the issues were and  
8 what needed to be done in terms of follow-up.

9 There were also some issues  
10 longstanding for the petitioner to get  
11 information they had requested from DOL and  
12 from NIOSH and so forth. I think we have  
13 finally resolved those. I just got an email  
14 from [identifying information redacted]  
15 indicating that he had received or was about  
16 to receive a lot of the information that he  
17 had recently requested from DOL.

18 So our plan is to have a meeting  
19 and try to resolve and come to some conclusion  
20 on that SEC Evaluation Report shortly. The  
21 meeting will take place as part of another  
22 meeting.

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1           The other half of our meeting on  
2 SEC issues concerned the 250-day issue where  
3 we have been talking about a long time in what  
4 situations or circumstances will we qualify  
5 people for the SEC when they don't have a 250  
6 work day requirement and basically when there  
7 are short term, very high exposures, and how  
8 to resolve how to interpret that in terms of  
9 the regulation, the situations that we  
10 encounter which are varied, depending on the  
11 site and amount of information we have,  
12 involve a number of the specific sites, the  
13 NTS, Ames, among others. The Met Lab was the  
14 other one.

15           I think we made good progress in  
16 our conference call on that, and we plan on  
17 another probably full day Work Group meeting  
18 or at least an in-person Work Group meeting  
19 sometime before the May meeting, and hope to  
20 be able to report back with some  
21 recommendations to the Board by the May  
22 meeting.

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1                   TBD-6000?

2                   MEMBER   ZIEMER:        TBD-6000   Work  
3   Group met in December, and our main focus at  
4   that time was still on General Steel  
5   Industries, although we have the TBD-6000 and  
6   6001 matrices themselves to completely  
7   resolve, as well as the now three newer sites  
8   that we have basically not looked at yet. But  
9   our prime focus is still on GSI.

10                  There is a SEC Petition as well as  
11   the main Appendix B, which serves as the Site  
12   Profile.

13                  After our meeting in December, at  
14   which time [identifying information redacted]  
15   had reported to us that he had identified the  
16   source of information that would help  
17   characterize the workplace much better, which  
18   included the actual AEC/NRC licenses,  
19   inspection reports, and some related  
20   materials, and these now have been provided to  
21   NIOSH, and we are awaiting their review of  
22   these materials. Dave Allen has informed me

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1 just this past week that he is still going  
2 through those materials.

3 Then the other important piece of  
4 information we are still awaiting is the  
5 outcome of the search for Picker X-ray  
6 records, which perhaps may be present in the  
7 Landauer records repository, and NIOSH has  
8 actually entered into a contract with Landauer  
9 to search the Picker records, not only for GSI  
10 information but for film badge records  
11 possibly from other locations as well.

12 In any event, we are hopeful that  
13 those efforts will provide a better  
14 characterization of the workplace for GSI, and  
15 as soon as NIOSH has completed their  
16 evaluation of those materials, the Work Group  
17 will schedule its next meeting.

18 CHAIRMAN MELIUS: To put you on  
19 the spot, Dr. Ziemer, we talked on, I believe,  
20 our first day of these meetings, whether --  
21 maybe it was yesterday -- whether we should  
22 add another SEC Evaluation to your Work Group

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1 or whether we should form a new Work Group  
2 relative to that. I don't know if you have  
3 had time to give it some thought.

4 MEMBER ZIEMER: I have tried not  
5 to think about it too much. I suppose, in  
6 fairness, we should at least pick it up  
7 initially, because although if you feel like  
8 you have some people who need more Work Group  
9 activities -- a lot of this ends up being the  
10 same people, but I don't have a good --

11 MEMBER GRIFFON: Is United Nuclear  
12 then the one?

13 MEMBER ZIEMER: Yes, United  
14 Nuclear. But it is fairly clear to me that  
15 our next meeting is probably going to have to  
16 be a two-day meeting. We cannot do General  
17 Steel Industries plus these others. So either  
18 way, if we have a new Work Group, they will  
19 have to meet. Some of this is the same  
20 people, but in any event, if we don't have  
21 people available to do that individually, I  
22 guess we will add it to our workload, but --

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1                   MEMBER BEACH:     What if we add  
2 another alternate to that?

3                   MEMBER ZIEMER:    I think it would  
4 be excellent to have at least --

5                   MEMBER CLAWSON:     What are you  
6 offering?

7                   MEMBER ZIEMER:     Lunch at the  
8 Cincinnati Marriott. Perhaps at least one of  
9 the new Members might want to participate in  
10 that, but we can talk further, I suppose,  
11 after we get the other reports.

12                  CHAIRMAN MELIUS:   Okay. Is there  
13 some way -- it is just a thought. Is there  
14 some way of having a sub-Work Group that would  
15 just focus on a particular site that would  
16 sort of ease some of the burden on you to keep  
17 track of all this, and also at the same time  
18 take into account what is going on and then be  
19 able to understand it?

20                  MEMBER ZIEMER:     Like a Work Group  
21 of the Work Group?

22                  CHAIRMAN MELIUS:   Yes.

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1                   MEMBER ZIEMER:    Well, one of the  
2 things that ties these together is they all  
3 are subsets of TBD-6000 or 6001, as the case  
4 may be.    So the work of whatever group is  
5 handling this still has to tie in with TBD-  
6 6000, which as was indicated earlier, is a  
7 type of surrogate data situation.    But even in  
8 that framework, places like General Steel  
9 Industries, although it comes under that  
10 category, still have their own dataset.

11                   So we are not doing what you would  
12 call surrogate data there, in any event, but I  
13 see no reason why we couldn't have a separate  
14 group, for example, for this new one, maybe  
15 with some overlapping membership, and have the  
16 Work Groups back to back, and maybe the folks  
17 who aren't on both can sit in if they want to  
18 on the other.    That might be a way to do it.

19                   CHAIRMAN MELIUS:       Thank you.  
20 Worker Outreach, which I believe is the last  
21 one on our list.    Mike Gibson, do you want to  
22 give us an update on Worker Outreach?    I

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1 believe the information that the Work Group  
2 had compiled has been circulated to the Board  
3 and has also been made available here at the  
4 meeting. So, Mike, if you want to --

5 MEMBER GIBSON: Thank you, Dr.  
6 Melius. When the Work Group was established,  
7 you know, we were charged with looking at  
8 worker outreach and how worker input was given  
9 due diligence to the program, when  
10 appropriate. This turned out to be a  
11 complicated task.

12 There were many avenues to look  
13 at. So it has taken us some time, but we  
14 provided the Board with a mission statement on  
15 a previous meeting, which was adopted, and we  
16 also told the Board we would bring forth an  
17 implementation plan, which is before you now.

18 By procedure, I don't know if this  
19 needs to be adopted by a motion, but we did  
20 want to present it to the Board, because it  
21 potentially could have some impact on the  
22 agencies, the Board and other Work Groups, and

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1 we just wanted to make sure that it is  
2 comprehensive but it is not too burdensome on  
3 the process.

4 So the presentation itself is kind  
5 of lengthy. So I just felt it was better to  
6 send it out to the Board in advance, giving  
7 them time to review it, and maybe we could  
8 just have a short discussion on questions on  
9 what the Board feels right now.

10 CHAIRMAN MELIUS: Okay. So for  
11 the Board Members, there's two documents. One  
12 is a PDF of a PowerPoint presentation. That  
13 is on your memory sticks, and then there was  
14 another document that was handed out that  
15 supplements that. Ted, do you want to add?

16 MR. KATZ: Yes. The other handout  
17 is the actual plan, which I think Mike's  
18 presentation very closely follows. So you  
19 don't necessarily have to read both, but some  
20 of you may have read it already, because we  
21 distributed it before a prior Board meeting.

22 David, just to let you know, I

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1     emailed this to you, if you want to see the  
2     actual plan, but again Mike's presentation, I  
3     think, covers it pretty closely.

4                   MS. ROBERTSON-DeMERS:     This is  
5     Kathy Robertson-DeMers. I think it is not the  
6     actual implementation plan. I think that was  
7     the options to be considered for the Board.

8                   MR. KATZ:     We are talking about  
9     two different things, Kathy. That is coming  
10    up next. We are just talking about the plan  
11    for evaluating outreach right now.

12                   MS. ROBERTSON-DeMERS:    Okay.

13                   MR. KATZ:     Thanks.

14                   CHAIRMAN MELIUS:     So do people  
15    have comments on that, or questions? Dr.  
16    Ziemer?

17                   MEMBER ZIEMER:    Well, I certainly  
18    want to compliment the Work Group on the  
19    preparation of this plan, Mike. You and your  
20    colleagues have really done a fine job in  
21    scoping out the work.

22                   I     must     say,     it     looks     very

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1 ambitious to me, and my thought was that  
2 probably you need to try some of this out and  
3 then refine it later, if it needs refining.  
4 But I think it has got a lot of items in it  
5 which seem to be appropriate, if we can do  
6 them, that would be helpful if we could do  
7 them.

8           Again, I think it is very  
9 ambitious, but you won't have a full grasp, I  
10 don't think, of the extent of this effort --  
11 it looks extensive to me -- until you start to  
12 try some of it. It is not always obvious if  
13 you are asking fully the right questions, but  
14 this is one of those areas, like many others,  
15 that we have had in the past where we have to  
16 try things and then modify them or improve  
17 them or get rid of them, as the case may be.

18           So that is my comment. I did have  
19 one question, which is on objective 4. This  
20 is a question that you will probably put in  
21 the same category as my typical dangling  
22 participles, because another thing that always

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1 dangles is the use of et cetera.

2 I am pretty good at figuring out  
3 what et cetera means when somebody says it is  
4 1, 3, 7, 9, et cetera. I know that the next  
5 thing is 11. But when they list a number of  
6 things such as here, I have no idea what the  
7 next thing is.

8 So what I am wondering is, did the  
9 group have anything specific in mind or was  
10 this just a place holder in case something  
11 else emerged? What is the next thing on the  
12 list represented by et cetera in objective 4?

13 MEMBER GIBSON: Dr. Ziemer, I  
14 totally agree with you. This is a much bigger  
15 task, we are finding out, than what we  
16 originally thought, and we do intend on trying  
17 to take baby steps and maybe do one or two  
18 things at a time, and just work through the  
19 process and see how it works.

20 Et cetera is just that. It is a  
21 place holder. We were just trying to be  
22 comprehensive. If we left something out, we

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1 just wanted to make sure we weren't limited to  
2 that. We weren't trying to necessarily expand  
3 into other areas.

4 CHAIRMAN MELIUS: Okay. Thanks,  
5 Mike. Any other Board comments on this?

6 I have one comment, and I don't  
7 know how much of this you could hear and  
8 appreciate from over the telephone, but at the  
9 beginning of our meeting Lew Wade outlined  
10 NIOSH's plans for their own evaluation, and  
11 that evaluation includes some evaluation of  
12 worker outreach.

13 I think it is fine to have -- I  
14 think the Board should be doing what we are  
15 doing through this Work Group. I don't think  
16 that is a problem, but certainly in terms of  
17 what steps, where we start and so forth, it  
18 would probably be better if we focusing on  
19 different areas or at least complement what is  
20 done, so we are not sort of duplicating --  
21 they are not duplicating what the Work Group  
22 is doing, and vice versa.

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1           So some coordination on that would  
2     be helpful, I think. If you talk to Lew, he  
3     can fill you in on what is going on and be  
4     able to work that out.

5           MEMBER GIBSON: Sure. We would be  
6     glad to, Jim.

7           CHAIRMAN MELIUS: Good. Thanks.  
8     But again, I compliment the Work Group on your  
9     efforts here in developing this plan, and we  
10    look forward to its implementation.

11           Are there more comments? Okay.

12           The other piece we have, which is  
13    what has caused some of our confusion here  
14    today is this discussion on tracking public  
15    comments and issues to the Advisory Board,  
16    which is a four-page document that is in front  
17    of us.

18           As I understand it, this is from  
19    the Work Group, and it is in response to some  
20    comments that Dr. Ziemer made at the last  
21    meeting. It outlines -- this is the one that  
22    lists a number of different options and so

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1     forth for doing that.  I don't know if people  
2     have input on that.

3                   Mike, do you have anything you  
4     want to say?

5                   MEMBER GIBSON:  Well, basically --  
6     and again, I know this is wordy.  Dr. Ziemer  
7     had made a comment in our New York meeting  
8     about that the Work Group might consider  
9     looking into public comments and how they are  
10    tracked or responded to.

11                   As we looked at that, we tried to  
12    determine -- not only at public meetings, but  
13    there are times at Work Group meetings that  
14    the workers, the advocates might comment.  So  
15    we have tried to just -- basically, what I  
16    think this breaks down to is we want to be  
17    able to track comments, and we are trying to  
18    find a way that at public meetings, either  
19    Worker Outreach Work Group, SC&A, whoever we  
20    designate, would track those comments, but we  
21    are not necessarily involved in Work Group  
22    meetings.

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1           So that perhaps the Work Group  
2           Chairs could track comments, and we need to  
3           find a mechanism to maybe follow them back to  
4           this Work Group when appropriate and just find  
5           a way to determine whether they are site  
6           specific, issue specific, whether they are  
7           programmatic-wide, whether it is something  
8           that is appropriate for a Work Group to  
9           respond to or whether it is something that is  
10          appropriate for the full Board to discuss  
11          before the comment is responded to, is  
12          basically what this is trying to say.

13                   CHAIRMAN MELIUS:        Okay.        Any  
14           questions?

15                   MEMBER BEACH:    No questions, but I  
16           do have a comment.    If you look at this  
17           document and if you look at the scope, option  
18           1, 2 and 3, basically lays out in very simple  
19           language what each of those options are.    If  
20           you go into the body of the document, it just  
21           -- that is where it gets a little wordy, but  
22           it gives you how, how the scope is going to be

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1 accomplished.

2 I guess we as a Work Group wanted  
3 to give as many options as possible. During  
4 NIOSH's presentation, they did talk about a  
5 tracking system, and I believe they put -- it  
6 is on our memory stick of how they are  
7 tracking, and it is something we asked SC&A to  
8 maybe look at tracking in that format also.  
9 So something to look at.

10 MEMBER GRIFFON: I guess I am  
11 struggling with to what end? What are we -- I  
12 mean, is this task to begin tracking -- I  
13 think I understand the different options,  
14 although they may not be as clear as you think  
15 they are to others. But is it a goal?

16 I don't understand why the Work  
17 Group would be setting up a tracking system?  
18 Are you evaluating whether the current --  
19 whether past comments have been tracked and  
20 have been considered by NIOSH or are you  
21 proposing to begin tracking? I guess I am not  
22 exactly sure what the options are or to what

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1 end. What are you trying to get at with this  
2 proposal?

3 MEMBER GIBSON: Mark, I think what  
4 we are trying to do is we want to review the  
5 current policies and procedures on how the  
6 meetings are conducted. We want to take a  
7 limited slice in time back at the past to see  
8 how that has worked, not go back to day one,  
9 but then see how that is working and see if,  
10 in the future, that the current policies and  
11 procedures and conduct of meetings serves our  
12 purpose and gives due diligence to the  
13 questions and the responses and the input to  
14 the program that the workers give.

15 MEMBER GRIFFON: I actually think  
16 that makes sense to me. You are talking about  
17 a sample retrospectively, and then if you find  
18 some concerns or flaws, making recommendations  
19 going forward. Is that sort of --

20 MEMBER GIBSON: Yes.

21 MEMBER GRIFFON: I am not sure I  
22 see that in option 1, 2, 3 or 4, but I accept

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1 that. I think that is not a bad idea.

2 CHAIRMAN MELIUS: I think it is in  
3 there. It was just, there are other options,  
4 and it was a little hard. Actually picked  
5 that as option 1, as I understood it. Yes,  
6 Kathy DeMers from SC&A.

7 MS. ROBERTSON-DeMERS: I just  
8 wanted to kind of clarify. The goal was to  
9 kind of be accountable for the comments that  
10 the public was making and follow through on  
11 those comments. What the Working Group tried  
12 to present here was various options for  
13 various portions of that process that you  
14 should consider.

15 They range from very minimal to  
16 very detailed, and we are looking for guidance  
17 from the full Board on how they want it done.

18 MR. KATZ: Maybe just recollecting  
19 the Work Group meeting, I could shed some more  
20 light on this.

21 OCAS already has sort of put in  
22 place a program to sort of track that they are

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1 responding to comments that sort of they find  
2 are in their domain to respond to, whether it  
3 is to refer on to DOL or because it is a dose  
4 reconstruction issue with a particular dose  
5 reconstruction or what have you. So they have  
6 set up this tracking system to make sure they  
7 are doing their job diligently when it is  
8 their issue from a Board meeting.

9           So the Work Group liked that model  
10 and wanted sort of accountability for the  
11 Board's responses to issues that really belong  
12 in front of the Board.

13           So it wasn't so much to monitor  
14 that OCAS is doing its piece correctly,  
15 although that model is nice, and certainly  
16 they want to look at that, at how OCAS is  
17 doing with their responses, but also I think  
18 the intent -- and, Mike, correct me if I am  
19 wrong, but this is how I sort of understood it  
20 all -- was to make sure that the Board itself  
21 covered those issues that had been put before  
22 it, gave some response to the public.

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1                   MEMBER GRIFFON: I guess I totally  
2 misinterpreted it. I thought it was to look  
3 at NIOSH's past activities and see if they had  
4 actually been following through. Maybe that  
5 is part of the --

6                   MR. KATZ: That is the evaluation,  
7 that other stuff that you already dealt with.

8                   Mike, so does that do you justice?

9                   MEMBER GIBSON: We wanted to make  
10 sure the Board fulfills what we believe its  
11 responsibility is to the workers, but I think  
12 part of our task is also to monitor NIOSH. We  
13 don't want to make this a burdensome task that  
14 pulls down the Board, the Work Groups and OCAS  
15 and everything else, but I do think we have a  
16 responsibility to monitor OCAS, how they  
17 collect the comments and how they respond to  
18 them, too.

19                   CHAIRMAN MELIUS: Go ahead, Dr.  
20 Ziemer.

21                   MEMBER ZIEMER: I just wanted to  
22 comment that, actually, when I brought this

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1 issue to the Board last time, I wasn't fully  
2 aware that NIOSH was formally tracking any of  
3 this, but it had seemed to me important to  
4 recognize that there are reoccurring themes  
5 that come to this Board from public comment.

6 Now we often hear individual cases  
7 or information and stories about individual  
8 experiences that are very individual specific,  
9 and those are handled by staff people, claims  
10 people, and so on. But I am talking about the  
11 other kinds of things that we hear that have  
12 to do with people's experiences with the CATI,  
13 as an example.

14 We actually in the past have  
15 followed up on many of those things, but the  
16 concern was that there could be issues that  
17 fall through the cracks. We get so many  
18 comments, and superimpose that on all the  
19 things we cover in the Board meeting, and it  
20 is very easy to forget some of those things.

21 The idea was, if we formalize and  
22 said, yes, we are going to keep track of this

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1 information, and if we can categorize it --  
2 they have given some examples. Well, I guess  
3 NIOSH gave examples of how they would do it --  
4 but categorize them, and then determine  
5 whether or not some follow-up or action should  
6 be taken.

7 Now there are many that are Work  
8 Group specific. For example, in General Steel  
9 Industries, I have a whole lot of comments  
10 that have come out from the petitioners, and I  
11 feel that is something the Work Group has to  
12 track in the sense that we are responsible not  
13 necessarily to have a matrix, but at least to  
14 track what the issues are for the petitioner,  
15 and we do that, but we have a lot of people  
16 that call in, and we have had some that aren't  
17 necessarily petitioners, but they have some  
18 concern about something in the program. That  
19 was kind of genesis in my mind.

20 As was indicated, some of these  
21 are issues as to -- they are Board related  
22 issues. Now none of our Board related issues

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1 are really separate from NIOSH. We don't  
2 operate in a vacuum. So there is a lot of  
3 overlapping things, and we need to recognize  
4 that. From my point of view, if NIOSH tracks  
5 it all, that's great, as long as somebody is  
6 tracking it.

7 CHAIRMAN MELIUS: This may help or  
8 it may confuse, but I know I have seen this  
9 someplace. But if you go to our memory  
10 sticks, under the NIOSH program update, the  
11 folder, there are -- I believe this is the  
12 list of the issues that they are tracking, the  
13 comments they are tracking from, I think, the  
14 last two Board meetings, under that.

15 I guess what I am a little  
16 confused on is what are the criteria for what  
17 they track versus what they are not tracking,  
18 and what was -- maybe, Stu, you can address  
19 that, because I think that -- then I think, if  
20 I understand it right, then what the Outreach  
21 Work Group is doing is proposing setting up a  
22 tracking and follow-up of issues that NIOSH

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1 isn't tracking, because they are Board issues.

2 So the Board needs a way of  
3 keeping track of that and assuring that those  
4 are being followed up. Stu?

5 MR. HINNEFELD: Well, I want to  
6 offer a little information, just so everybody  
7 knows this isn't a historical practice that we  
8 have been doing all along. It was discussed  
9 at the October Board meeting, as I recall, as  
10 it would be desirable that we keep track of  
11 these comments that are made in public comment  
12 in some fashion.

13 Following that meeting then, we  
14 embarked -- you know, we took the action to do  
15 that, and we did it just for the previous  
16 meeting, because those transcripts were  
17 available. We started right after the October  
18 meeting. The transcripts for the July meeting  
19 were available, and we reviewed those  
20 transcripts to record the comments.

21 We had our Worker Outreach  
22 contractor do this task. I believe our

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1 instruction to them was to record the comments  
2 that were a response -- that were essentially  
3 respondable to.

4           You know, there are a number of  
5 public comments, there is really nothing to  
6 respond to. People recount their history and  
7 the difficulties they have encountered in the  
8 history, but there is not really a lot to  
9 respond to those. I believe we asked our  
10 contractor to record the comments that it was  
11 possible to respond to.

12           This was sort of a pilot thing,  
13 just to get started. We have not finalized  
14 anything. We have not written -- I believe we  
15 just gave the contractor verbal instructions  
16 from their contract's technical monitor.

17           So there is nothing really  
18 formalized about what we had proposed to do.  
19 I think we can, in fact, provide responses for  
20 things that reflect our activities, to the  
21 extent we can.

22           I don't want to be presumptuous in

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1 making an assignment even to myself, though,  
2 for these comments that we would really  
3 consider essentially in the domain of the  
4 Board, since these are public comments made to  
5 the Board. By doing it, by going ahead and  
6 writing some responses, it provides some  
7 timeliness that wouldn't be there if it were  
8 sort of a Board deliberated thing, because we  
9 could -- once we had compiled them, we could  
10 assign and start working on it.

11 This is embryonic here. We just  
12 started this, and we have not really done much  
13 of anything on how to proceed yet.

14 CHAIRMAN MELIUS: I would just add  
15 to that that there are also, I can imagine,  
16 comments that need to be followed up by both  
17 NIOSH and the Board. If someone reports on  
18 some particular circumstance or something  
19 about a particular site, obviously, NIOSH is  
20 going to be -- it is relevant to NIOSH's work  
21 on that site. It is also relevant to the  
22 Board and SC&A's review of that site. So it

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1 ought to be tracked by both, and I think at  
2 least communicated to both, obviously. So,  
3 therefore, a tracking system for either is  
4 appropriate. Josie?

5 MEMBER BEACH: I would like to  
6 propose -- this was actually brought up at the  
7 last Board meeting for our Work Group to bring  
8 these recommendations to the Board so that the  
9 Board could decide how they wanted to track  
10 public comment.

11 So that is what we did here. What  
12 I would like to recommend, if Mike is in  
13 agreement and the Work Group, is -- I know  
14 SC&A took comments during all the public  
15 meetings, this meeting -- if we could get  
16 together as a Work Group and put those into a  
17 tracking system and present it to the Board at  
18 the May meeting to give you an idea of how it  
19 would look from the Work Group, if that would  
20 be --

21 CHAIRMAN MELIUS: I think that  
22 would be fine, and also some coordination with

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1 NIOSH on that. So if we are going to do this,  
2 let's make sure we have some coordination and  
3 understand what each party is doing.

4 I would add, if my memory is  
5 correct, that once upon a time a long time  
6 ago, ORAU was tasked to do this also, and  
7 somehow that got stopped. So we are starting  
8 again.

9 MEMBER GIBSON: Jim, again this is  
10 -- as we started out this discussion, these  
11 are just our first baby steps. We may be a  
12 little overarching right now, but just, let's  
13 take a little time and see how it works, and  
14 we can always modify what we are doing. We  
15 just want to make sure that, again, worker  
16 comments are given due diligence, and their  
17 input is looked at in the program in the right  
18 perspective when appropriate.

19 CHAIRMAN MELIUS: I think we  
20 understand. I think it is helpful to have  
21 sort of a big framework for it, which is what  
22 you have done. So it is broad. I think, at

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1 the same time, the implementation is  
2 implemented in steps, and that is what you are  
3 proposing. I think that is helpful.

4 Kathy, did you want to say  
5 something?

6 MS. ROBERTSON-DeMERS: I just  
7 wanted to say something that might clarify  
8 something. We gave you a presentation on the  
9 implementation plan, and then you have a copy  
10 of the full implementation plan that we talked  
11 about earlier.

12 That implementation plan is for  
13 evaluating NIOSH worker outreach activities.  
14 The options that are presented for data-  
15 tracking are for Board comments that are  
16 received.

17 CHAIRMAN MELIUS: We understand  
18 that, but I think that on the worker outreach  
19 part, I think, now that we understand this  
20 better, all of us, that we need to read this  
21 over. I would like to put this -- a report  
22 from this Work Group in an update, and maybe

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1 we can reach some decisions, give some advice  
2 to the Work Group at our next Board call,  
3 which would be at the end of March.  
4 Meanwhile, I think we should go ahead with  
5 what Mike proposed on the public comment  
6 follow-up. Is that satisfactory with  
7 everybody? Okay.

8 Thank the Work Group for their  
9 work on this.

10 You have an item here: managing  
11 conflicts on tasking and TBDs and PERs.

12 MR. KATZ: I do have that, and I  
13 can go into that, although it is not pressing  
14 right now, and I am just worried about your  
15 time.

16 CHAIRMAN MELIUS: I am worried  
17 also.

18 MR. KATZ: I could address that at  
19 the teleconference.

20 CHAIRMAN MELIUS: Okay. That  
21 would be fine.

22 I think let's do additional --

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1 well, let me ask the Board, would people like  
2 to take a 15 minute break?

3 (A chorus of yes.)

4 CHAIRMAN MELIUS: Yes. We will  
5 take a 15-minute break.

6 (Whereupon, the above-entitled  
7 matter went off the record at 3:15 p.m. and  
8 resumed at 3:33 p.m.)

9 CHAIRMAN MELIUS: Okay, Ted, you  
10 want to check the lines?

11 MR. KATZ: Yes. Dr. Richardson  
12 and Mr. Gibson, are you with us?

13 MEMBER GIBSON: Yes, I am here,  
14 Ted.

15 MR. KATZ: David?

16 (No response.)

17 CHAIRMAN MELIUS: It is very late  
18 there. We have five items left. We have SC&A  
19 tasking to do and some issues relative to  
20 that. Following that, we have some Work Group  
21 --

22 MEMBER RICHARDSON: Just for the

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1 record, I am here. I'm sorry. couldn't get  
2 the mute off.

3 CHAIRMAN MELIUS: Okay. Both you  
4 and Mike have been very good. We understand  
5 it is not easy.

6 Work Group assignments,  
7 volunteering, and then we have the letters to  
8 approve. We have some letters, correspondence  
9 kinds of issues to respond to. Finally, we  
10 have to do some meeting scheduling.

11 So we will start with SC&A. So,  
12 John, if you want to come to the microphone  
13 and sort of give us an update. John, I think,  
14 provided to us -- I don't believe it was on  
15 the memory sticks, but it was through an  
16 email, a document that was his sort of status  
17 report, I guess you would call it, material  
18 for consideration by the Board at the meeting.

19 DR. MAURO: I sent out two  
20 packages, not expecting it to be anything  
21 formal but just for the information of the  
22 Board and, certainly, the new Members of the

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1 Board.

2 Two packages went out. One is a  
3 complete listing of everything that we have  
4 done or are actively doing on this contract  
5 since 2003. Basically, so it is almost a  
6 laundry list. In that same package, the items  
7 that are still active where we have been  
8 tasked and we are doing things, and we are  
9 billing time, I put down an estimate of what I  
10 believe it is going to cost to finish up the  
11 work that we have been tasked to date, so that  
12 everyone has a sense of the amount of  
13 resources that have effectively been committed  
14 and how much is basically available to the  
15 Board.

16 So it sort of sets the stage of,  
17 okay, here is the work that is ongoing, this  
18 is what was completed and done, and here is  
19 the work that currently is ongoing and it will  
20 require this much resources to finish, which  
21 effectively puts you in a good position to  
22 judge, to know, okay, we have this much

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1 resources available to us to task SC&A as we  
2 see fit.

3 The other package is a listing of  
4 all of the Site Profiles, PERs, that we have  
5 not yet reviewed. In effect, it is a menu,  
6 and what they cost. If you want us to review  
7 this one, it will be this much.

8 So in effect, I am trying to put  
9 you in a position to help judge where you  
10 would like us to be tasked.

11 Now it does not include anything  
12 related to SECs. The SEC issues emerge from  
13 these meetings. So in effect, what this is,  
14 is a listing of, basically, Site Profiles that  
15 you may or may not want to task us with and  
16 how much they would cost.

17 So, basically, I am trying to put  
18 in front of you the information you might need  
19 to task us, which is over and above any  
20 tasking that might emerge as a result of the  
21 SEC discussions.

22 I guess that is it. Now we could

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1 go through it. I could put it up on the  
2 screen or -- I don't know really where to go  
3 from here.

4 CHAIRMAN MELIUS: I think we would  
5 like to not go through it in great detail. We  
6 have had it, but I think we need to have  
7 enough understanding to be able to make  
8 assignments.

9 We traditionally make assignments  
10 sort of incrementally from meeting to meeting,  
11 because the information changes and so forth,  
12 and it changed over this particular meeting.

13 I would also add that there are  
14 things that -- there are also changes that  
15 SC&A has been assigned to do Site Profile  
16 reviews, but there are some Site Profiles that  
17 there are not Work Groups formed for yet.

18 DR. MAURO: That is true.

19 CHAIRMAN MELIUS: And once we form  
20 the Work Group, then there's costs associated  
21 with the SC&A contract for the resolution  
22 process.

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1 DR. MAURO: You make a very  
2 important point. In the table where I list  
3 the things that have been completed and how  
4 much resources to that -- well, have not been  
5 used, there are many Site Profile reviews that  
6 we have completed over the last five years  
7 that have no Work Group, and in the table I  
8 put zero dollars there, because we have not  
9 yet been tasked. There is no Work Group, and  
10 we have not been tasked to do anything with  
11 that Work Group.

12 So I am not assuming there will be  
13 money, because we may never get to that. So  
14 the dollars that are in there that I am saying  
15 are sort of committed, these are really  
16 committed. They are not anticipating that  
17 maybe someday a Work Group will form to look  
18 at Weldon Spring or to look at X-10 or K-25.  
19 These are all Site Profiles that we have  
20 completed, but there really is no active Work  
21 Group. So I did not put any dollars in.

22 If I did that, if I were to assume

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1 that there would be a Work Group opened on  
2 every single one of these that are Site  
3 Profiles that we have already performed, I  
4 would say that we would probably be very close  
5 to have already have committed all the dollars  
6 available to SC&A.

7 CHAIRMAN MELIUS: So, John, do you  
8 want to -- I don't know if you have slides  
9 ready or what, just as a way of putting these  
10 up in front of people. I am not sure that  
11 everybody has them in front of them.

12 DR. MAURO: We have a stick here  
13 with that on it. I am trying to track it  
14 down.

15 MR. KATZ: While John is getting  
16 ready, let me just check on the line. Chris  
17 Cox, are you on this line, by any chance? Oh,  
18 okay, no need. I am just getting a signal  
19 from the audience. Thank you.

20 CHAIRMAN MELIUS: While they are  
21 working on that, I will address two other --  
22 bring up two other things that I think we have

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1 identified in terms of Work Groups.

2 One is Lawrence Berkeley where we  
3 did approve an SEC. We have a Site Profile  
4 review that, I believe, is undergoing  
5 classification review but should be -- if my  
6 memory is right, it should be back shortly,  
7 and the question is do we want to try to form  
8 a Work Group to go through that Site Profile  
9 and resolve that. So I think that is one we  
10 need to assign.

11 The second one is United Nuclear,  
12 which would be sort of the subgroup that --  
13 what we are calling that sub-Working Group --  
14 would coordinate with Paul's committee.

15 MEMBER ZIEMER: One possible  
16 suggestion that came up, actually, during the  
17 break was that it might be worth thinking  
18 about splitting the TBD thing and do TBD-6000  
19 and its facilities, the Appendices, and TBD-  
20 6001.

21 So the suggestion would be, for  
22 example, to take the current Work Group and

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1 make it the TBD-6000 Work Group, and it would  
2 continue to have General Steel Industries, and  
3 then to appoint a new Work Group for TBD-6001  
4 and the Appendices that come under it.

5 A further suggestion would be to  
6 take some of the -- have some overlap in  
7 membership, so that there is some continuity,  
8 so maybe a couple of Members, perhaps, and  
9 certainly include a couple of the new people.

10 That would be the suggestion.

11 Was United a 6000?

12 MEMBER MUNN: It is 6000.

13 MEMBER ZIEMER: 6001. So that  
14 would fall under the new Work Group.

15 MEMBER MUNN: It is?

16 DR. NETON: TBD-6001 is uranium  
17 production type facilities, and I believe that  
18 would be United Nuclear. TBD-6000 is uranium  
19 metalwork type operations.

20 CHAIRMAN MELIUS: I think the  
21 general consensus is that that is a good idea.

22 So that would be the second Work Group that

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1 we need to form.

2 MEMBER ZIEMER: Right, and I would  
3 point out Electro Metallurgical is also a  
4 6001. That is Appendix C, I believe, of 6001.

5 I don't know if LaVon can confirm that.

6 DR. NETON: I believe that  
7 Electro-Met -- I believe that is a 6001,  
8 because that was a uranium recovery.

9 MEMBER ZIEMER: Right. I have it  
10 down as Appendix C of 6001.

11 DR. NETON: Okay. Yes, I think  
12 that is correct.

13 MEMBER ZIEMER: So Electro  
14 Metallurgical would also join that, whereas  
15 Bliss & Laughlin, I believe, is a 6000.

16 CHAIRMAN MELIUS: John, while we  
17 have you up there, before we start this, off  
18 the top of your head, are there other finished  
19 Site Profiles where you have not had Work  
20 Groups assigned yet? There are a number.

21 DR. MAURO: Oh, yes. They are in  
22 the -- one of the packages I gave you lists

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1 all the Site Profiles that we have done. The  
2 ones in bold in the copy that you have -- the  
3 ones in bold are the Site Profile reviews that  
4 have been completed, but there is no Work  
5 Group. Is it apparent on your copies?

6 CHAIRMAN MELIUS: I am trying to  
7 see if I have the right copy here or if it is  
8 on the other. Well, rather than hold up, why  
9 don't I ask. I am going to ask for volunteers  
10 first for the new 6001 Work Group, an idea of  
11 who would be interested in serving on that.

12 MEMBER GRIFFON: I would offer to  
13 be an overlapping member of that.

14 MR. KATZ: So, Mark, you said yes?

15 MEMBER ANDERSON: As long as there  
16 is somebody else who is overlapping. I don't  
17 want to be lead on anything.

18 MEMBER ZIEMER: Well, I will  
19 overlap, too, if we need another overlap.

20 MEMBER ANDERSON: I would be happy  
21 to do that.

22 CHAIRMAN MELIUS: I think, at this

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1 point we are not going to assign any of the --  
2 we are not going to make new Members of the  
3 Board as Work Group Chairs yet, and we will  
4 take into account overlapping, try to get who  
5 is willing, so to speak, on that.

6 MEMBER ANDERSON: The 6000 group?

7 CHAIRMAN MELIUS: This would be  
8 the new 6001 group. It would overlap. So I  
9 have got that filled.

10 MR. KATZ: Okay, that is four.

11 CHAIRMAN MELIUS: And Mark.

12 MR. KATZ: Who would Chair?

13 CHAIRMAN MELIUS: We will see  
14 where we are with that and so forth. Then for  
15 Lawrence Berkeley.

16 MEMBER ANDERSON: Do you meet at  
17 Berkeley? I'll take that.

18 CHAIRMAN MELIUS: Wanda? David or  
19 Mike, if you are still on the phone, are you  
20 interested?

21 MEMBER GIBSON: Jim, this is Mike.  
22 If you need someone for one of the Work

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1 Groups, I will volunteer.

2 CHAIRMAN MELIUS: Okay. What I  
3 will do is also follow up with Jim Lockey, and  
4 then I will figure this out later, and then do  
5 the assignments.

6 DR. NETON: There are three people  
7 on that one?

8 CHAIRMAN MELIUS: We may just do  
9 three or something. John?

10 DR. MAURO: We ready? Thank you.  
11 I wasn't expecting to go through this. So I  
12 won't take up too much of your time.

13 I put up -- you folks have all  
14 received this email report dated February 6th.  
15 I know you receive a lot of material, but I  
16 sent this, basically, I thought it would be  
17 helpful, given that we have been -- our budget  
18 is fully approved for this year as of January  
19 1st, and it turns out that that budget is  
20 always about \$3.4 million, \$3.5 million.

21 So what we are looking at is the  
22 big picture right now. Stay with me, and I

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1 will get this under control. There it is.  
2 Okay.

3 As of January 1st -- and you can  
4 think of it as the project manager for SC&A --  
5 we have \$3.4 million available to us or  
6 available to the full Board to task us. Now  
7 it is important to recognize that, as of this  
8 date, we have a lot of work that we are still  
9 working on.

10 We have work that was tasked last  
11 year. There is a lot of -- there are Work  
12 Groups active. So what, in effect, the second  
13 line says is, well, we have work in progress  
14 right now that we are already involved in, and  
15 we have work products that we owe you. As of  
16 today, that is \$1.3 million as of today. So  
17 we already have a backlog where we have  
18 deliverables that I estimate will cost \$1.3  
19 million.

20 Now the third line says, I  
21 anticipate that this upcoming year we are  
22 going to require -- SC&A will require, sort of

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1 like effectively committed, \$360,000 to  
2 support program management. What program  
3 management is, SC&A -- whenever we come to  
4 these meetings, that is part of program  
5 management, and it is basically my time. So  
6 it is supporting meetings, but that is  
7 effectively committed. So that is really not  
8 available, so to speak.

9           The next is: we also expect that  
10 you will be assigning us this year 60 new DR  
11 reviews. That has sort of been a staple. So  
12 I am making the assumption that during the  
13 course of this year we will be asked to  
14 perform 60 new dose reconstructions. It is a  
15 presumption.

16           On that basis, as of today we have  
17 committed -- we are effectively committed to  
18 \$2.3 million out of the \$3.5 million. So the  
19 Board has what I would call discretionary  
20 funds of \$1.15 million available to it to task  
21 us. So that is sort of where we are right  
22 now.

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1           So, in theory, you could task us  
2 to do -- today to do some work, and the  
3 purpose of that is to set the stage to say,  
4 okay, that is the resources available to the  
5 Board to task SC&A.

6           Now you folks probably have a  
7 sense regarding the degree to which there is  
8 any new SEC work that you think might be  
9 needed that you might want us to task us. I  
10 am not addressing those here. I am just  
11 simply -- what I am doing now is saying in the  
12 past historically, the places beside Dose  
13 Reconstruction Reviews, which seem to be very  
14 consistent -- year after year after year, we  
15 do 60 a year. That is why I have put them in.

16 I am just assuming you are going to want us  
17 to do that.

18           So that money is effectively  
19 committed. But tasking us to do Site Profile  
20 Reviews is sort of like -- I call it a  
21 judgment that you make from time to time,  
22 whether you would like us to do any Site

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1 Profile Reviews.

2           What you are looking at here is a  
3 list of all of the Site Profiles that are out  
4 there that we have not reviewed, SC&A has not  
5 reviewed. There may be some of them now, in  
6 light of where the developments are, that  
7 might be of interest that you might want us to  
8 task, and I have put down the price. It is a  
9 menu.

10           So a judgment could be made.  
11 Effectively, you have \$1.5 million available  
12 to you. For example, if you wanted us to do  
13 all the Site Profile Reviews that are out  
14 there right now, I totaled it all up. It  
15 would require almost half the budget we  
16 currently have left.

17           By the way, these are relatively  
18 inexpensive. Your experience in the past is  
19 that they were a lot more expensive, because  
20 we were doing the big ones: Hanford, Savannah  
21 River. What is left are what I consider to be  
22 relatively small ones.

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1           So that is why these are  
2 relatively inexpensive, but I would like to  
3 put you in a position -- and that is why I  
4 presented this to you -- that, if you elect to  
5 task us to do any Site Profile Reviews, here  
6 is how much they will cost, and you will see  
7 what it does to the budget.

8           You may not want to do that. You  
9 may want to save the resources to do SEC-  
10 related work. Besides Site Profile Reviews,  
11 there also are some procedures that you might  
12 want reviewed. There aren't very many left.

13           We have basically reviewed all of  
14 them. We have reviewed about 130 procedures,  
15 and we are well along in the issues  
16 resolution, but there are a few remaining. I  
17 listed those and their price.

18           Finally, PERs: this is something  
19 that is emerging. To date, we have only  
20 performed three PER reviews. We did Blockson  
21 PER, thoracic lymphoma, and high-fired  
22 plutonium, and we have delivered those reports

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1 to you.

2                   These are a list of all of the  
3 PERs that are out there, and the number of  
4 cases that they affect. In other words, you  
5 may decide that, yes -- the way I am starting  
6 to look at it is there really aren't very many  
7 procedures, but maybe there are some PERs that  
8 you might be interested in having reviewed.

9                   These are all the PERs, and the  
10 number of cases that might be are impacted  
11 that were reevaluated. In other words, every  
12 one of these PERs resulted in a reevaluation  
13 of the cases. So the second column tells you  
14 how many cases were reevaluated. That will  
15 help you make a judgment which ones might be  
16 important to look at, and I have put down the  
17 price that we estimate it would cost to do it.

18                   So in effect, this is a listing of  
19 here's the resources that are available to the  
20 Board, and here are all of the different kinds  
21 of things you might want SC&A to do or not do,  
22 bearing in mind that I think your greatest

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1 interest has been, and probably continues to  
2 be, SEC-related activities.

3 So I guess I will leave it at that  
4 point. That is, you can make a judgment on  
5 some SECs, and I am going to try to keep you  
6 apprised of where we stand, because if we  
7 start to open up, let's say, a lot more Work  
8 Groups to look at many of the old Site  
9 Profiles we reviewed, the burn rate will start  
10 to increase, and I could see a situation  
11 arising where SC&A will run out of money  
12 before the end of the year.

13 We have been very fortunate, I  
14 have to say, over the last six years that the  
15 way in which the work has unfolded is we have  
16 been in budget. We have never been in a  
17 situation where we ran out of money by the end  
18 of the year.

19 Given that we have new Board  
20 Members, given that there may be more Work  
21 Groups, more Site Profiles that are going to  
22 go through issues resolution, the burn rate of

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1 SC&A may increase. I will keep you apprised  
2 on a routine basis of when I think we might be  
3 in trouble. I think that is what I was hoping  
4 to explain.

5 CHAIRMAN MELIUS: Thank you.  
6 Don't leave there. Can you go back to the  
7 Site Profile page?

8 As I said earlier, what we have  
9 traditionally done is we've tried to do this  
10 incrementally, recognizing that, again, we  
11 don't want to have an important SEC evaluation  
12 that we can't address. At the same time, we  
13 don't want to let things -- we don't want to  
14 end up with essentially a lot of money left in  
15 the contract, unused resources, and find that  
16 we haven't dealt with issues, and they stay  
17 around for too long.

18 I think what we have tried to do  
19 in terms of prioritizing the Site Profiles and  
20 so forth is basically a sense of what the  
21 number of cases there, so how important are  
22 they for that? I think that, given these

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1 costs, we can make some assignments on, again  
2 off the top of my head, four or five of these  
3 Site Profiles to do.

4 Ted, do you want to comment on  
5 that?

6 MR. KATZ: No. Before we actually  
7 get into the dialogue about which, I would  
8 like to discuss what I was planning to discuss  
9 about tasking in this sort of situation.

10 CHAIRMAN MELIUS: Okay.

11 MR. KATZ: Is this the time to do  
12 that?

13 CHAIRMAN MELIUS: That is the time  
14 to do it, before it is too late.

15 MR. KATZ: Okay. Thank you. So  
16 this came up with the PER tasking the last  
17 Board meeting, and I have gotten some  
18 guidance. I want to make it clear, this  
19 guidance is interim guidance, because the  
20 source of this guidance needs to consult with  
21 others who are expert for this sort of  
22 situation.

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1           The guidance for now, when we have  
2 a situation like this with PERs or Site  
3 Profiles where there are multiple sites, and  
4 it is really not practical for Board Members  
5 to leave because they might be conflicted with  
6 one site; but if you have a whole bundle of  
7 sites that we will be discussing all at once,  
8 the practice would be, when the discussion  
9 comes around to a site that you are conflicted  
10 at, for you to just state for the record that  
11 you are recused from the discussion, to put  
12 that on the record at that point that it comes  
13 up, and then, of course, not engage in that  
14 discussion at all.

15           Then if it is decided by the rest  
16 that that is a site for which we want to task,  
17 then there needs to be an individual -- we  
18 need to do a roll-call type vote as opposed to  
19 -- in the past, I think we have often just  
20 sort of done a general consensus, a verbal  
21 tally that everybody agrees, but in this case,  
22 we actually need to make it clear on the

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1 record that the person with the conflict did  
2 not vote in favor of that tasking for that  
3 site.

4 MEMBER GRIFFON: What do we do for  
5 like high-fired -- and this came up before  
6 with high-fired plutonium PER where we would  
7 not retain -- I am not sure we would retain a  
8 quorum? Maybe we will, but I think a lot of  
9 people would have to -- could be conflicted on  
10 that one because it affects so many sites.

11 MR. KATZ: And that particular,  
12 for example, one -- and there are not that  
13 many that, I think, fall in that bucket, but I  
14 would suggest we don't deal with that right  
15 now.

16 MEMBER MUNN: Ted is our man.

17 CHAIRMAN MELIUS: It would cut  
18 down on the number of Board comments, though.  
19 That is for sure. Actually, John Poston had  
20 a question or a comment.

21 MEMBER POSTON: We may be asking  
22 the same question. John, I noticed on the

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1     unreviewed   projected   cost   for   the   Site  
2     Profiles   that   West   Valley   is   on   there   twice.

3                   DR. MAURO:   Is it?

4                   MEMBER POSTON:   Yes.

5                   CHAIRMAN MELIUS:   At least, the  
6     cost didn't change.

7                   MEMBER POSTON:   That is the  
8     question.   Should we reduce the cost by  
9     60,000?

10                  DR. MAURO:   That is it exactly. I  
11     am sorry about that.

12                  CHAIRMAN MELIUS:   Wanda?

13                  MEMBER MUNN:   In looking at those  
14     Site Profiles, Canoga and De Soto jump out at  
15     me because of the discussion that we had about  
16     them during this very meeting. It may be only  
17     my sense, but it seems that it is going to be  
18     very difficult for us to segregate the Canoga  
19     and De Soto sites from the other Santa Susana  
20     activities. They appear to be so intertwined.

21                  It would appear logically to me  
22     that that particular pair of Site Profiles

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1 would be amongst those that we would choose.

2 With respect to the PERs, if there  
3 is nothing --

4 CHAIRMAN MELIUS: Maybe, can we do  
5 it maybe Site Profiles, then procedures, then  
6 PERs?

7 MEMBER MUNN: I wasn't even going  
8 to address individual PERs.

9 CHAIRMAN MELIUS: Okay, then.

10 MEMBER MUNN: What I was going to  
11 suggest is that, because we have had such a  
12 lengthy discussion about it in Procedures, we  
13 have just about beaten this to death, but we  
14 have not yet worked out the final thinking  
15 with respect to how we really should address  
16 the business of who has what responsibility  
17 for reviewing the PERs and how we were going  
18 to do it.

19 We intend to do that at our March  
20 meeting, and if we can, in fact, bring that  
21 information to the Board so that you can have  
22 the Subcommittee's recommendation on how to

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1 deal with PERs, then that might give us a  
2 better handle on how to go forward choosing  
3 our group.

4 CHAIRMAN MELIUS: Excellent.  
5 Good. Then that would be something we could  
6 take up on our March 31st phone call.

7 MEMBER MUNN: Correct.

8 DR. MAURO: May I say something  
9 regarding the PERs? We have delivered three  
10 PER reports, but they are not complete. The  
11 last part of them is the review of selected  
12 cases. So that is one of the places where,  
13 once a judgment is made on the responsibility,  
14 one of the first things that will need to be  
15 done would be identification of cases that  
16 should be reviewed to see the degree to which,  
17 in fact, the PERs were implemented.

18 So that is something that is not  
19 on this chart, but that remains to be done.  
20 One of the things I had mentioned is, we could  
21 identify some that we think might be useful to  
22 test or we just could wait until the Board

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1 points out which cases you would like us to  
2 review.

3 MEMBER GRIFFON: Is that  
4 considered in your cost estimate, John,  
5 reviewing the cases?

6 DR. MAURO: The review of the  
7 cases is included in the cost estimate. I  
8 assumed three cases, but the last one we did -  
9 - turns out that one of the most recent  
10 reviews we just completed, which was the  
11 thoracic -- no, I forget which one -- one of  
12 the last ones we just completed, we think it  
13 is going to take more than three cases. There  
14 may be as many as 10, because there are so  
15 many dimensions to the problem.

16 MEMBER MUNN: Yes. You had  
17 originally -- when you were talking to us in  
18 Procedures, you said probably a minimum of  
19 seven, and more than likely more.

20 DR. MAURO: On that particular  
21 one.

22 MEMBER MUNN: Yes, on that

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1 particular one.

2 DR. MAURO: But in general, we  
3 felt we will do three just to confirm that it  
4 was done, but this one had lots of dimensions  
5 to it. I just don't recall which.

6 MEMBER MUNN: Just another one of  
7 those things that we hadn't finished working  
8 through in Procedures.

9 CHAIRMAN MELIUS: I understand.  
10 Good point. Brad?

11 MEMBER CLAWSON: I guess, looking  
12 at this, I am looking for a little bit of a  
13 bang for my buck, because Clarksville and  
14 Medina, 90 percent of the information on those  
15 facilities is at Pantex, plus on numerous  
16 petitioners a large amount of the people came  
17 from Clarksville and Medina to Pantex.

18 I feel they are kind of important  
19 to get in place for the main site that I am  
20 working with now. All the information that  
21 was in those facilities went down to where we  
22 are at now. So I think, just to be able to

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1 make it easier, it sure would be nice to get  
2 those going. They are a part of it.

3 CHAIRMAN MELIUS: Are we going to  
4 be able to get the information, I guess, is my  
5 question.

6 MEMBER CLAWSON: That is another  
7 question, but in some of the information that  
8 I have already reviewed -- and also a majority  
9 of the petitioners that I have ran into,  
10 numerous ones of them have already come from  
11 Clarksville and Medina, and this is part of  
12 their issues: where did everything go? We  
13 haven't reviewed those.

14 CHAIRMAN MELIUS: The only  
15 hesitation I would have is that we -- if I  
16 understand this right -- so we would make the  
17 assignment to SC&A. Nothing could be done,  
18 because in terms of getting information back  
19 and so forth, and we would have all this money  
20 committed that we might need for other uses.  
21 I guess we can readjust it at some point.

22 MEMBER CLAWSON: I think that we

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1 are getting at the door right now with the  
2 issues that DOE has committed to assist us  
3 with and so forth. I think we are going to  
4 get there, and I understand your concern. It  
5 is just that, while we are already there, we  
6 might as well be pulling this other stuff,  
7 kind of a bigger bang for our buck.

8 CHAIRMAN MELIUS: My question  
9 would be the top two on the list there that  
10 have the most cases, and I think we have put  
11 off on Pacific Northwest for a while, and the  
12 same on Kansas City. It has come up before,  
13 and we should address those.

14 So I guess we will do the  
15 6000/6001. You have separate lists for those,  
16 I believe, John.

17 DR. MAURO: Yes. What I did here  
18 --

19 CHAIRMAN MELIUS: Just sum them.

20 DR. MAURO: Yes. The actual  
21 individual ones are listed later on in the  
22 write-up, and you can see, the individual ones

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1 are relatively inexpensive. Quite frankly,  
2 many of them have already gone through what I  
3 would call a mini-review, because I have done  
4 a lot of cases where, when I review the case,  
5 I have to review the Appendix. Now it is not  
6 a very thorough review. It is only reviewed  
7 to the extent to which it applies to the case.

8 That is why you could see there  
9 are 15 AWEs, and the total price of the 15 is  
10 whatever that number there is, \$72,000.

11 CHAIRMAN MELIUS: So if my quick  
12 math is correct, for the six that we have  
13 talked about, Pacific Northwest, the Kansas  
14 City plant, the Clarksville-Medina, Canoga, De  
15 Soto, that would be about \$270,000 or so to  
16 do? Let's do the 6000/6001 separately.

17 So if we got those going now in  
18 terms of assignments, is that reasonable with  
19 everybody? Now the conflicts and then the  
20 vote, but --

21 MEMBER GRIFFON: Those six?

22 CHAIRMAN MELIUS: Those six, yes.

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1       So could we have a motion from somebody on  
2       the Board?

3                   MEMBER ANDERSON:    So moved.

4                   CHAIRMAN MELIUS:    So moved.    Thank  
5       you.

6                   MEMBER LEMEN:    I will second.

7                   CHAIRMAN    MELIUS:            Second    from  
8       Dick.    All in favor?

9                   (A chorus of ayes.)

10                   Opposed?

11                   (No response.)

12                   Abstain?

13                   (No response.)

14                   Okay.    I think Wanda proposed that  
15       we -- on Procedures and PERs, we hold off  
16       until the March 31st call, when we will hear  
17       from the Subcommittee.    So that then would  
18       leave any assignments on the 6000 and 6001.    I  
19       don't know, Paul, if you have any comments on  
20       what would be priorities on those?    It is  
21       quite a long list.

22                   MEMBER ZIEMER:    Well, John, remind

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1 me. On Appendix BB, which is General Steel,  
2 you have already covered that in the existing  
3 budget.

4 DR. MAURO: Yes.

5 MEMBER ZIEMER: So that is not an  
6 issue.

7 DR. MAURO: These are exposure  
8 matrices that we have not yet reviewed.

9 MEMBER ZIEMER: Now on both  
10 Electro Metallurgical and Bliss & Laughlin,  
11 last time what we said was something similar  
12 to what has been said on Piqua, that we wanted  
13 the Work Group to look at it first to see  
14 whether or not -- no, one of those we did  
15 task. That is right.

16 DR. MAURO: We are almost done  
17 with both of those.

18 MEMBER ZIEMER: Oh, we did that.  
19 That's right. I know we had talked about  
20 that, and then we did task them both. So  
21 those are --

22 DR. MAURO: Those are close to

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1 being delivered.

2 MEMBER ZIEMER: Right, and I don't  
3 have a feel on the new ones, whether we would  
4 want to task those now or authorize the  
5 tasking and let the Work Group, the new Work  
6 Group look at the new one or not.

7 CHAIRMAN MELIUS: I would say,  
8 given the process, let's authorize the  
9 tasking. At least, I would be comfortable  
10 with that.

11 MEMBER GRIFFON: For all the  
12 6000/6001?

13 CHAIRMAN MELIUS: Yes.

14 MEMBER ZIEMER: That would be  
15 United Nuclear.

16 CHAIRMAN MELIUS: Yes.

17 MEMBER ZIEMER: On United Nuclear,  
18 let's see, you also mentioned that that is  
19 being revised -- right -- that Appendix. So  
20 we need to clarify the status before we have  
21 them --

22 MR. RUTHERFORD: Yes. It is being

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1 revised. I don't have a date for when it will  
2 be completed, but that Appendix is being  
3 revised.

4 MEMBER ZIEMER: I am not sure we  
5 want to authorize --

6 MR. RUTHERFORD: I could give the  
7 Board an update at the Board conference call.

8 MEMBER ZIEMER: That would be  
9 good. Then if it is revised, then we could  
10 immediately begin the tasking.

11 CHAIRMAN MELIUS: And then that is  
12 also going to affect the SEC.

13 MEMBER ZIEMER: Right.

14 CHAIRMAN MELIUS: So your  
15 suggestion is a motion?

16 MEMBER ZIEMER: Well, the  
17 suggestion is to defer the tasking. If we  
18 don't task, we don't need a motion anyway. We  
19 don't need a motion to not task, I don't  
20 think, unless we need to stop it.

21 CHAIRMAN MELIUS: By the way, I  
22 want to introduce one person. The new CDC

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1 Contracting Officer has been here with us. I  
2 think many of you have seen him. Ruben Cruz  
3 is there. Welcome, and glad to be able to  
4 work with you, and look forward to doing that.

5 I also worked with him on World Trade Center  
6 medical program. So he has quite a challenge  
7 in terms of sort of different programs, I  
8 guess you would call them, the large and  
9 complicated.

10 Good. Anything else?

11 DR. MAURO: Thank you. Thank you  
12 very much.

13 CHAIRMAN MELIUS: Thank you. I  
14 don't know what order I said we would do it  
15 in, but we have the five letters to do.  
16 Counsel's office is sick of hearing me. So  
17 Emily has given us permission not to read the  
18 letters into the record, but we will be  
19 providing them to the Court Reporter. So they  
20 will be in the record, but we will do that.

21 There are five of them. One that  
22 somehow the heading got left off, that is,

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1 obviously, the Nevada Test Site; LLNL; Santa  
2 Susana; Lawrence Berkeley; and Westinghouse.

3 Are there comments or changes? I  
4 believe Emily wanted to make some corrections.

5 MR. KATZ: Are we doing these one  
6 by one, LLNL to start with?

7 CHAIRMAN MELIUS: Yes, I guess. I  
8 was hoping we could do a motion as a group and  
9 adopt them with the changes.

10 MEMBER ANDERSON: Just a question,  
11 what is the supporting documentation? Is  
12 that just transcripts?

13 CHAIRMAN MELIUS: That is  
14 transcripts of -- petition reports, all the  
15 information, yes.

16 MEMBER ANDERSON: So it is a big  
17 pack?

18 CHAIRMAN MELIUS: Yes.

19 MS. HOWELL: I think, due to  
20 conflict of interest concerns, we may need to  
21 separate them.

22 CHAIRMAN MELIUS: That is a good

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1 point.

2 MR. KATZ: That is what I was  
3 going to say. It is just that we have two  
4 people who have conflicts, one -- two of  
5 these, one for Lawrence Livermore and then one  
6 person is conflicted for Berkeley. So we  
7 can't do these as a group.

8 CHAIRMAN MELIUS: Okay. So why  
9 don't we start -- what is on top of your pile  
10 there?

11 MS. HOWELL: NTS.

12 CHAIRMAN MELIUS: Okay, let's  
13 start with NTS.

14 MS. HOWELL: I will clarify. I  
15 gave Dr. Melius a copy of some minor, more  
16 grammatical --

17 MEMBER ZIEMER: A point of order,  
18 if I might. We have already approved this.  
19 All that we are doing is editing the material.  
20 So I just want to make sure it is editing.

21 MR. KATZ: I do understand that.  
22 I understand, but --

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1                   MEMBER ZIEMER:    We are not going  
2   to vote on anything.

3                   MR. KATZ:    I understand we are not  
4   voting, but we are discussing, and it is  
5   discussing the substance of one of the sites.

6    Even though it is just editing, it is just  
7   safe --

8                   MEMBER ZIEMER:    I wasn't sure that  
9   we were discussing substance so much as  
10   editing.

11                  MS. HOWELL:    So I gave Dr. Melius  
12   earlier copies of each of the letters that had  
13   some grammar issues and places where the  
14   language in the Class Definition did not  
15   exactly track with the Class Definition  
16   language in the NIOSH SEC Evaluation Report.  
17   Those are all pretty minor changes. The only  
18   things I am going to talk about are a few  
19   bigger issues. I will leave that to you, and  
20   I did not have any comments regarding NTS.

21                  CHAIRMAN MELIUS:    I would just add  
22   for NTS, it is a little different from some

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1 other letters. Some of this was taken as a  
2 paragraph there, under the bullets. It was  
3 something we had commented on with the  
4 previous above-ground testing, about people  
5 working on-site, actually living on-site, and  
6 asking Department of Labor to take note of  
7 that, which I believe they do. So it is not  
8 an unusual request but, otherwise, it is  
9 relatively standard.

10 Any comments on that? If not --

11 MEMBER MUNN: I have only one  
12 question. I am assuming that counsel and  
13 someone else has double-checked the dates in  
14 each of these letters. I did not take the  
15 time to check the dates. They are correct.

16 CHAIRMAN MELIUS: I did okay on  
17 the dates.

18 MEMBER MUNN: Good. Thank you.

19 MR. KATZ: Just for the record,  
20 Mark can rejoin the table.

21 CHAIRMAN MELIUS: Yes.

22 MS. HOWELL: The next one in my

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1 pile is Santa Susana. In Santa Susana, I  
2 requested that the language in the second  
3 paragraph be changed to delete Section 83.13  
4 and the word and from the fourth line down,  
5 since this is an 83.14 SEC Petition.

6 I also requested that the location  
7 of Ventura County, California, be deleted from  
8 the Class Definition, since it doesn't appear  
9 in the NIOSH Class Definition. We have had  
10 some concerns in the past with physical  
11 locations being included.

12 Then a third issue: the second  
13 bullet on the page, second line, if you could  
14 change the word laboratories to facilities, so  
15 that it reads, radiological operations at  
16 these facilities, in order to be able to  
17 complete accurate individual dose  
18 reconstructions, et cetera.

19 CHAIRMAN MELIUS: Anybody else  
20 have comments? Dr. Ziemer?

21 MEMBER ZIEMER: Well, one comment.

22 If you delete Ventura County, California, is

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1 there an address location that can be used  
2 other than just the title?

3 MS. HOWELL: My concern with the  
4 location -- I don't have a problem --

5 MEMBER ZIEMER: I know the Ventura  
6 County part was probably the issue, though.  
7 Right?

8 MS. HOWELL: That would be fine.  
9 My concern is that the location -- that  
10 sentence -- that Ventura County, California,  
11 appears in is actual Class Definition. If you  
12 would like to put a location in the very first  
13 sentence, then that is better, but in the  
14 Class Definition, the concern was if there is  
15 any tiny part of the facility that falls  
16 outside of Ventura County, we don't want DOL  
17 to have an issue with the implementation.

18 CHAIRMAN MELIUS: And actually,  
19 when we did the first one there, we had that  
20 particular question. There was uncertainty  
21 about location, because things had moved  
22 around or something. I can't remember the

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1 details, but that was what we did. I just  
2 forgot to take it out there. Next?

3 MS. HOWELL: The next one in my  
4 stack is Lawrence Berkeley. MR. KATZ:  
5 And for the record, Dr. Field is recusing  
6 himself.

7 MS. HOWELL: In this letter,  
8 again, on the second paragraph, fourth line  
9 down, if you could remove the reference to  
10 83.13 and that phrase, since it is an 83.14,  
11 and those were the only comments I had for  
12 that one.

13 CHAIRMAN MELIUS: Everybody else  
14 okay?

15 MEMBER ANDERSON: Is it okay with  
16 Berkeley, California?

17 MS. HOWELL: The next one in my  
18 stack is Westinghouse. Again, if you could in  
19 the second paragraph, fourth sentence, remove  
20 the reference to Section "83.13 and."

21 MEMBER ANDERSON: It is just a  
22 generic letter, right?

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1                   CHAIRMAN MELIUS:    At one point we  
2    had both in, on advice of counsel.    Now we  
3    have better counsel.

4                   MS. HOWELL:     And that was all I  
5    had on that one.

6                   The next one -- I believe the last  
7    one in my stack is Lawrence Livermore.

8                   MR. KATZ:     And for the record, Dr.  
9    Poston has recused himself.

10                  MS. HOWELL:     We wanted to make  
11    sure that Board Members had an opportunity to  
12    stretch their legs.

13                  On that one, the second paragraph,  
14    fourth line down, once again just remove  
15    "83.13 and."    That was all.    All of the dates  
16    were correct.

17                  CHAIRMAN MELIUS:   Dr. Ziemer had a  
18    correction under the second bullet, just to  
19    say that at the end of that, the Board concurs  
20    with this determination.    It has sort of  
21    become our standard language in that area.

22                  MEMBER MUNN:     What?

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1                   CHAIRMAN MELIUS:       End of the  
2 second bullet, add as the last sentence, "The  
3 Board concurs with this determination," for  
4 the second bullet.

5                   MEMBER MUNN:    So we will be saying  
6 twice, "The Board concurs"?

7                   MEMBER ZIEMER:    Excuse me.    We  
8 have on all of these letters except for this  
9 one.

10                  MEMBER ANDERSON:   We got to show  
11 some independence here.  That's fine.

12                  CHAIRMAN MELIUS:    We have Board  
13 correspondence.  Dr. Poston, you are welcome  
14 back.  Ted, you are going to have to help  
15 here.

16                  MR. KATZ:    Correspondence?

17                  CHAIRMAN MELIUS:    Correspondence,  
18 yes.

19                  MR. KATZ:    So we have the letter  
20 from ANWAG, the beefiest one.

21                  CHAIRMAN MELIUS:    There is a  
22 letter from the ANWAG group that actually

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1 precedes the meeting that, I believe, Lew Wade  
2 talked about that, or John Howard, earlier.  
3 So some of their issues have been discussed at  
4 that meeting and, Dr. Ziemer, you attended, I  
5 believe.

6 MEMBER ZIEMER: Yes.

7 CHAIRMAN MELIUS: You spoke of  
8 that. I guess the question is were there  
9 issues there that -- in terms of answering  
10 their letter, are there issues that weren't  
11 addressed there. Some, clearly, we are, like  
12 we are addressing the surrogate data issue in  
13 terms of follow-up.

14 MEMBER ZIEMER: I was looking for  
15 the letter itself. One of the issues, my  
16 recollection is that ANWAG had requested  
17 automatic tasking of NIOSH -- not of NIOSH --  
18 of SC&A whenever NIOSH produced an Evaluation  
19 Report for which they indicated that they  
20 could reconstruct dose with sufficient  
21 accuracy that the Board not wait to do the  
22 tasking, that it be done automatically.

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1 I am looking for the letter.

2 MEMBER ROESSLER: From  
3 [identifying information redacted] to you?

4 MEMBER ZIEMER: Yes, and it was  
5 distributed. Oh, here it is, I believe.

6 I think Dr. Melius was asking me  
7 if all of the issues had been covered, and let  
8 me just identify the issues. One of the  
9 issues was the use of surrogate data. They  
10 were concerned about that, and of course, that  
11 is being addressed.

12 I believe -- I am looking at the  
13 letter now to see -- basically, a concern on  
14 the use of surrogate data and the parameters  
15 there; urges the Board to reverse their  
16 position, and it says to advise the President  
17 that the use of surrogate data is inconsistent  
18 with the spirit of EEOICPA.

19 I think, in the context of our  
20 discussion earlier today, beginning with the  
21 discussion by Dr. Miller and then the work of  
22 the Surrogate Data Group, I think that is

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1 being addressed.

2 Another issue was the  
3 confidentiality issue on the disclosure of  
4 worker identity when workers talk to people,  
5 particularly at the sites where there were  
6 classified information. I am not quite sure  
7 where that stands now.

8 There was concern that the  
9 identity of those that SC&A spoke to was being  
10 revealed to the federal agencies. That was  
11 one of the concerns that was raised. Again, I  
12 leave it to the Chair, to the extent we  
13 discuss that.

14 There was also concern about SC&A  
15 having to turn over their documents to OCAS,  
16 again, I think, related to those -- all of the  
17 things that SC&A retrieved, and the issue of  
18 who owns the work product.

19 Oh, and then she talks about the  
20 joint meeting and invites us to participate,  
21 which we did. So those were the issues  
22 raised.

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1                   CHAIRMAN MELIUS:       For the new  
2 Board Members and my recollection, the letters  
3 for the Board, other than simple  
4 acknowledgments, are all discussed with the  
5 Board before they go out. In this case, I  
6 think we could respond, if it is okay with  
7 people, respond informationally to them that,  
8 yes, we have attended the meeting, we followed  
9 up, and we are taking these issues under  
10 consideration and will at future meetings. If  
11 that is okay with people, I will send that  
12 letter out, and then circulate that.

13                   We have a second letter. This is  
14 dated December 3 from -- I don't believe this  
15 is in the package, or not. I can't recall,  
16 but it is relatively short. It is from  
17 Senator Durbin in Illinois: "Writing on  
18 behalf of my constituents who" --

19                   MEMBER ZIEMER:       That is under  
20 miscellaneous.

21                   CHAIRMAN MELIUS:       Oh, that is  
22 under miscellaneous, basically about General

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1 Steel Industries. I think a response back to  
2 Senator Durbin would be to the effect that we  
3 have an active Work Group that is considering  
4 this and is following up on it, and we expect  
5 to take action in the near future. I think  
6 that that -- is that kind of response  
7 appropriate?

8 MEMBER ZIEMER: My only comment  
9 here: I originally didn't think this letter  
10 called for a response, simply because he was  
11 simply indicating that he supported this  
12 petition. At a minimum, probably it would be  
13 good to indicate that we have received his  
14 letter. It has been distributed to the Board,  
15 in addition to the suggestion you have made  
16 that the Working Group is developing a  
17 recommendation for the Board.

18 CHAIRMAN MELIUS: Right. I think  
19 we should try to acknowledge the letter.

20 The other letter we have is from -  
21 - that was read yesterday when we discussed  
22 NTS -- from Senator Reid, I think, which we

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1 have obviously taken care of the SEC. He  
2 asked for follow-up on three other issues, and  
3 I think you heard me respond to his staff  
4 person with what we were doing on those  
5 issues. I would just write an acknowledgment  
6 letter back just saying, thanks for the  
7 letter; we have done the SEC, and the other  
8 three issues that you raised, we are following  
9 up on -- or, actually, NIOSH is addressing two  
10 of them. So is that satisfactory? Okay.

11 I think that is our last letter.  
12 The only other letter we have is when we talk  
13 about what I believe is our final item, the  
14 next meeting. Checking with Ted to make sure  
15 I didn't miss anything.

16 MR. KATZ: Yes. Not a letter, but  
17 the next item is future meetings.

18 CHAIRMAN MELIUS: Next item. It  
19 is also a letter, too, because we have a  
20 request regarding a meeting place.

21 MR. KATZ: We do.

22 CHAIRMAN MELIUS: Well, let's talk

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1 about the meeting first. Scheduled for March  
2 31st.

3 MR. KATZ: Yes. So presently we  
4 have a teleconference on March 31st, and then  
5 -- sorry, let me go to my records here. We  
6 have our meeting at INL in Idaho, and that is  
7 in August. Let me find my dates here, August  
8 10-12 in Idaho Falls, and given how much -- we  
9 might want to query the Board at this point,  
10 given how much work there will be at that  
11 meeting, as to whether we are going to be able  
12 to do it in three days.

13 CHAIRMAN MELIUS: It was scheduled  
14 for two days, right? Three days?

15 MR. KATZ: The schedule is three  
16 days, yes. I am just wondering if three days  
17 is going to be big enough. This is for Idaho  
18 Falls, August 10-12.

19 CHAIRMAN MELIUS: We have a May  
20 meeting.

21 MR. KATZ: Oh, I'm sorry. Excuse  
22 me. I did skip a lot. I'm sorry. May 19th

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1 through the 21st is Buffalo, New York. How  
2 did I do that?

3 CHAIRMAN MELIUS: And I think, due  
4 to various schedules, as I recall, this ended  
5 up being doing a Wednesday, Thursday and  
6 Friday, and I think there was a problem with  
7 Tuesday, and I can't remember, among some  
8 Board Members. So I think there we are --

9 MR. KATZ: We will have to squeeze  
10 in.

11 CHAIRMAN MELIUS: -- we will have  
12 to squeeze in, in three days.

13 MEMBER GRIFFON: What was the  
14 date?

15 MR. KATZ: May 19th through 21st,  
16 and following that we have July 14th. That is  
17 French Independence Day. That is a  
18 teleconference.

19 CHAIRMAN MELIUS: Nancy is going  
20 to correct.

21 MS. ADAMS: This is Nancy Adams.  
22 Ted, there was some confusion. It is really

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1 not Buffalo. It is Niagara Falls, is actually  
2 the location.

3 MR. KATZ: Yes. We call it  
4 Buffalo, I guess, but it is Niagara Falls.

5 CHAIRMAN MELIUS: Where are we in  
6 Niagara Falls?

7 MS. ADAMS: We are at the Crowne  
8 Plaza Hotel.

9 MR. KATZ: Thank you, Nancy.

10 CHAIRMAN MELIUS: There is an  
11 airport in Niagara Falls they have been trying  
12 to get someone to fly to for a long time. I  
13 better not say anything more or I will get in  
14 trouble, a letter from the Niagara Falls  
15 Board.

16 MR. KATZ: Okay. So everyone has  
17 that July 14th teleconference. That is a  
18 teleconference.

19 Then we have August 10th through  
20 12th. That was what I was -- Idaho Falls.

21 MEMBER LEMEN: Do you know the  
22 hotel where that is at?

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1                   MR. KATZ: I don't know. It may  
2 be set, but we will get information to you on  
3 that. I don't know that we have that set yet.

4                   CHAIRMAN MELIUS: I would say, on  
5 the Idaho Falls meeting -- and, Brad, don't  
6 take offense, but given the time and how long  
7 it takes to get in and out of there, I think  
8 we would all be leaving on the morning --  
9 Friday morning. I don't think -- maybe Josie  
10 and, obviously, Brad. Wanda might be able to  
11 get out. I don't even know if you can easily  
12 that night. So I think we will have three  
13 full days of meetings there.

14                  MR. KATZ: I would also note, for  
15 that we are going to try to set up a tour of  
16 INL.

17                  CHAIRMAN MELIUS: On the 9th?

18                  MR. KATZ: Yes, that is right,  
19 whatever, that fits, the 9th, a tour of INL  
20 and Argonne West, I think that is.

21                  MEMBER GRIFFON: That won't take  
22 long. It is a small site.

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1                   MR. KATZ: Thank you, Mark. Then  
2 we have a teleconference on October 7th. That  
3 is as far as we have scheduled. In your  
4 bullets, I framed approximately the right time  
5 frame is November 1st through the 19th for the  
6 next face to face, but of course, we will move  
7 in whatever direction we need to, to  
8 accommodate schedules.

9                   CHAIRMAN MELIUS: I thought, these  
10 future meetings, we had an 18-day meeting.

11                   MR. KATZ: I don't think anybody  
12 would survive 18 days together.

13                   MEMBER MUNN: Was that in  
14 November?

15                   MR. KATZ: That would be November.

16                   MEMBER MUNN: Or December?

17                   MR. KATZ: Well, November 1st  
18 through 19th is the right time frame.

19                   CHAIRMAN MELIUS: Ted, what is the  
20 December date, 9th through 20th -- September  
21 20th through October 1st?

22                   MR. KATZ: That is -- ignore that.

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1 That was, before I realized we already had  
2 the teleconference set up for October 7th. So  
3 you can ignore that. Ignore that little  
4 parenthetical in your agenda. No matter.

5 CHAIRMAN MELIUS: I guess November  
6 -- we all know, once we get past Thanksgiving,  
7 scheduling is always difficult.

8 MEMBER MUNN: We did pretty well  
9 this last year.

10 MR. KATZ: So we are looking from  
11 November 1st through the 19th for three days  
12 that work.

13 MEMBER MUNN: Well, some folks  
14 wouldn't like to meet on Tuesday, the 2nd,  
15 election day, and do the Feds have Veterans  
16 Day off on the 11th, or not?

17 MEMBER ANDERSON: How about the  
18 week of the 15th, the 15th through the 19th,  
19 somewhere in there?

20 CHAIRMAN MELIUS: How does that  
21 week work?

22 MEMBER MUNN: That would do.

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1 MR. KATZ: It is perfect.

2 MEMBER MUNN: Sixteenth, 17, 18?

3 MR. KATZ: Sixteenth through 18th?

4 Is that good for everybody? How about for  
5 you, David and Mike?

6 MEMBER GIBSON: Yes, that should  
7 be okay, Ted.

8 MR. KATZ: How about David?

9 MEMBER RICHARDSON: Yes, I think  
10 that is okay.

11 CHAIRMAN MELIUS: Okay.

12 MR. KATZ: November 16th to the  
13 18th. Okay, that is dates then.

14 CHAIRMAN MELIUS: Well, we have a  
15 letter, a request from petitioners at Los  
16 Alamos. I believe it is a security guard  
17 petition group requesting that we meet in --

18 MEMBER LEMEN: Is that going to be  
19 a problem with snow?

20 MR. KATZ: November 15th, it will  
21 be.

22 CHAIRMAN MELIUS: -- in Los

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1 Alamos. We have met times in Santa Fe, times  
2 in Albuquerque.

3 MEMBER LEMEN: Whatever you want  
4 to do.

5 MEMBER MUNN: Albuquerque is no  
6 problem.

7 MEMBER LEMEN: I will just bring  
8 my snowshoes.

9 MR. KATZ; Is everybody in favor  
10 of that?

11 MEMBER POSTON: CDC has been  
12 having meetings at the Buffalo Thunder Resort,  
13 which is about halfway between Los Alamos and  
14 Santa Fe.

15 CHAIRMAN MELIUS: Do we think we  
16 will have something to talk about? Obviously,  
17 we have a full Board agenda, but in terms of  
18 the sites out there.

19 MEMBER GRIFFON: Well, I think the  
20 LANL Work Group would have met at least. Joe,  
21 that is fair to say, right? LANL Work Group  
22 would have met prior to November. I think it

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1 is fair to say that we will have made some  
2 progress and something to report.

3 MEMBER SCHOFIELD: Can I throw in  
4 my two cents on location? At that time of  
5 year, it might be safer to pick Albuquerque.  
6 It is not a very long drive from Los Alamos to  
7 Albuquerque.

8 MR. KATZ: So you think that would  
9 be okay for people from LANL to be able to  
10 attend? Okay.

11 Phil, how far is it for the LANL  
12 folks?

13 MEMBER SCHOFIELD: It is about an  
14 hour and a half.

15 CHAIRMAN MELIUS: We might have  
16 gotten out of Idaho Falls by then. Just come  
17 directly.

18 MEMBER PRESLEY: Santa Fe at that  
19 time of year will be all right.

20 MEMBER MUNN: Yes, it is.

21 CHAIRMAN MELIUS: Before we end  
22 the public meeting, are there any other

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1 issues? I said the public part of the  
2 meeting. We won't forget ethics.

3 One thing I don't think we have  
4 had time to do, and I will put on the -- I  
5 think we should put on the agenda for the next  
6 meeting is Lew did ask for some response and  
7 comments on the NIOSH review plan. I think,  
8 if individual Board Members want to comment  
9 directly to Lew in the meantime, since they  
10 are going to be doing some planning on this  
11 and so forth, it would be appropriate. Then  
12 we can also talk about it at the meeting  
13 coming up in March. Dr. Ziemer?

14 MEMBER ZIEMER: It just occurs to  
15 me -- I am thinking back a moment here to the  
16 ANWAG letter -- one of the items that was  
17 raised in that letter was the issue of  
18 automatic tasking of SC&A. We didn't actually  
19 deal with that.

20 Our practice has been to wait  
21 until the Board actually has a chance to see  
22 the Evaluation Report, and at least from my

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1 point of view, I recommend that we continue  
2 that, but I think we owe at least the  
3 opportunity for Board Members who may not  
4 agree with that to voice that so that we can  
5 at least indicate what the consensus is.

6 CHAIRMAN MELIUS: And as I said, I  
7 noticed that also, but in, I think, the  
8 response we would say that some of these  
9 issues are under consideration and will be  
10 considered by the Board. We will respond to  
11 them, once we have done that.

12 Well, I will adjourn the public  
13 part of the meeting, and everybody can leave  
14 except us and Emily.

15 MEMBER CLAWSON: Can we take a  
16 break?

17 CHAIRMAN MELIUS: No. She said  
18 yes. Why don't we take a ten minute break.

19 (Whereupon, the above-entitled  
20 matter went off the record at 4:43 p.m.)

21  
22

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