

THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE
CENTERS FOR DISEASE CONTROL AND PREVENTION
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

convenes the

THIRTY-SECOND MEETING

ADVISORY BOARD ON
RADIATION AND WORKER HEALTH

VOL. III

DAY THREE

The verbatim transcript of the Meeting of the
Advisory Board on Radiation and Worker Health held
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August 26, 2005

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TRANSCRIPT LEGEND

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-- (sic) denotes an incorrect usage or pronunciation of a word which is transcribed in its original form as reported.

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

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

-- (inaudible)/ (unintelligible) signifies speaker failure, usually failure to use a microphone.

In the following transcript "off microphone" refers to microphone malfunction or speaker's neglect to depress "on" button.

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(By Group, in Alphabetical Order)

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CRABB, EDA, GENERAL STEEL IND
DOWNS, DEB, TITAN
DUNGAN, JUDITH, SENATOR BOND'S OFFICE
ESPY, RICHARD, MALLINCKRODT CLAIMANT
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GENERI, MARY, MCW
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SCHWENNESEN, CLARENCE, UNWW
SCHAEFFER, D. MICHAEL, SAIC
SCHNEIDER, MARILYN, UNWW
STRAPES, FLORENCE, MALLINCKRODT
TENFORDE, THOMAS, NCRP
TOOHEY, RICHARD, ORAU
WILDHABER, SANDRA, MALLINCKRODT
ZIEMER, MARILYN

P R O C E E D I N G S

1 THE MALLINCKRODT SEC PETITION WAS THE BEGINNING OF
2 THIS DAY AND ENDED WITH ANNOUNCEMENT OF A RECESS.

3 (Whereupon, a recess was taken from 10:10 a.m.
4 to 10:40 a.m.)

5 **DR. ZIEMER:** Okay, we're ready to reconvene.
6 Some of the Board members now feel like they --
7 they may be able to leave earlier and have a
8 longer weekend or something. We actually had
9 left most of the afternoon open for discussion
10 on Mallinckrodt, so that becomes a moot point.
11 Let me tell you what we have left on our
12 agenda. We have policy on Capitol Hill visits
13 and a motion that we carried over from
14 yesterday to deal with. We have, from our --
15 from General Counsel and Liz more specifically,
16 the conflict of interest disclosure statements
17 which are to be posted on the internet, and
18 she's going to talk about that in -- not quite
19 yet, but in a minute. And then we have also --
20 we indicated before we'd like to at least do
21 some preliminary prioritization of the site
22 profile review process. So I think we have
23 those three items to deal with, and it seems to
24 me entirely possible and feasible for us to

1 complete these actions yet this morning, so at
2 least we will try to do that.

3 Let us begin with the Capitol Hill visits
4 issue.

5 **DR. WADE:** Well, they -- they're doing some
6 copying. Maybe we can --

7 **DR. ZIEMER:** Oh, okay. Maybe we can go ahead
8 with the --

9 **DR. WADE:** -- Liz.

10 **DR. ZIEMER:** -- with Liz with the conflict of
11 interest disclosures. Let's do that.

12 **CONFLICT OF INTEREST DISCLOSURE POLICIES**

13 **MS. HOMOKI-TITUS:** Thank you. At the last
14 Board meeting there was some discussion by
15 individual members, and we think a sense of the
16 Board, that you all wanted your conflict of
17 information (sic) information posted on the
18 OCAS web site. And as the Office of General
19 Counsel -- since that is not an HHS policy to
20 normally allow employees' information such as
21 this to be posted, we would feel more
22 comfortable if you would look at the
23 information that we've provided to you. If you
24 agree with it, if we could get a formal motion
25 from the Board and approval by the Board by

1 consensus to post this information. And also
2 we were hoping that this would be a good
3 opportunity for you all to look over the
4 information that we have for you as it's listed
5 here, and if there's some concern about what's
6 listed, if you could let Lew know and he can
7 let us know and we can be in touch with you to
8 talk about it.

9 **DR. ZIEMER:** So these could be revised or
10 updated if necessary.

11 **MS. HOMOKI-TITUS:** Absolutely. We're actually
12 hoping that they will be updated 'cause I think
13 some of the --

14 **DR. ZIEMER:** But this is based then --

15 **MS. HOMOKI-TITUS:** -- biographical information
16 --

17 **DR. ZIEMER:** -- on the information you
18 currently have --

19 **MS. HOMOKI-TITUS:** Right.

20 **DR. ZIEMER:** -- and it's formatted so that
21 they're all pretty similar. They begin with
22 the name, position, the biographical
23 information, the waiver statement, the year
24 issued and --

25 **MS. HOMOKI-TITUS:** The recusal sites.

1 **DR. ZIEMER:** -- the re-- re--

2 **MS. HOMOKI-TITUS:** Recusal, yes.

3 **DR. ZIEMER:** -- recusal sites. So what we need
4 then is a motion from the Board to -- counsel
5 has -- or the legal offices have decided that
6 they need a specific action from the Board that
7 we agree to have our individual conflict of
8 interest statements posted on the web site. Is
9 that the nature of the motion that we need?

10 **MS. HOMOKI-TITUS:** That's the nature of the
11 motion, and if you all want changes to this,
12 this is just all (unintelligible).

13 **DR. ZIEMER:** And we can -- we can edit our
14 individual ones, but the motion is an all-
15 encompassing one that we all agree to allow our
16 personal disclosure statements, in this format
17 --

18 **MS. HOMOKI-TITUS:** Right.

19 **DR. ZIEMER:** -- to be posted on the web site.

20 **MS. HOMOKI-TITUS:** Or another format, if you
21 prefer.

22 **DR. ZIEMER:** Okay. So I will entertain a
23 motion to that effect --

24 **MR. PRESLEY:** So moved.

25 **DR. ZIEMER:** Moved by Presley, seconded --

1 **MS. MUNN:** Second.

2 **DR. ZIEMER:** -- by Munn, that we proceed to
3 have our conflict of interest disclosure
4 statements posted on the web site in the format
5 suggested.

6 Is there any discussion?

7 **MR. PRESLEY:** Can we go back and change just a
8 little bit of this?

9 **DR. ZIEMER:** I think Liz said we can edit our
10 individual ones --

11 **MS. HOMOKI-TITUS:** Yeah, if you'll edit it and
12 just give --

13 **MR. PRESLEY:** And give it to you.

14 **MS. HOMOKI-TITUS:** -- it back to us, then we'll
15 clean them up. And they will be updated
16 regularly as your waivers are updated, as well.

17 **DR. ZIEMER:** Okay. Gen Roessler?

18 **DR. ROESSLER:** I just have a question. Mine
19 says a waiver has not been issued for Dr.
20 Roessler. I'm not sure I want that posted. I
21 don't know what it means. It sounds like I
22 have a problem.

23 **DR. ZIEMER:** Oh, you may have a problem, but
24 we're not going to --

25 **DR. ROESSLER:** I'm not sure.

1 **MS. HOMOKI-TITUS:** It means you actually don't
2 have a problem because the Ethics Office has
3 determined that you don't have any conflicts.

4 **DR. ROESSLER:** Well, that's what I thought it
5 meant, but it doesn't sound that way by the
6 wording.

7 **MS. HOMOKI-TITUS:** Okay, if you want to change
8 the wording, just let me know.

9 **DR. ROESSLER:** All right. I'll talk to you
10 later --

11 **MS. HOMOKI-TITUS:** Okay. I mean we could just
12 put the no --

13 **DR. ROESSLER:** -- (unintelligible) waiver.

14 **MS. HOMOKI-TITUS:** Yeah, no waiver is
15 necessary.

16 **DR. ZIEMER:** That's legalese for you don't have
17 a problem; it's the problem.

18 **MS. MUNN:** Please don't leave before the
19 meeting's over.

20 **DR. ZIEMER:** Jim.

21 **DR. MELIUS:** Yeah, I apologize for -- the
22 reporter caught me outside, but yeah, I -- I
23 think we discussed this at the last meeting,
24 and I think it's just fair that we have our
25 disclosure, as well as we've asked for it from

1 our contractor and from ORAU and from everybody
2 else involved in this -- this program, and I
3 think it provides some transparency.

4 **DR. ZIEMER:** Right. So you're speaking for the
5 motion.

6 **DR. MELIUS:** Yes, I am. Actually, Dr. Ziemer,
7 I made the suggestion last time and you told me
8 we didn't need a motion --

9 **DR. ZIEMER:** Well, we thought we didn't, but --

10 **DR. MELIUS:** -- and couns-- counsel overruled
11 us.

12 **DR. ZIEMER:** -- counsel overruled us, yeah.

13 **MS. HOMOKI-TITUS:** Sorry.

14 **DR. ZIEMER:** Yeah.

15 **DR. MELIUS:** And I would appreciate -- and I'm
16 not saying that it happened in this case, but
17 in the future, should counsel feel that a
18 motion would be more appropriate to have than a
19 suggestion, please let us know as soon --

20 **DR. ZIEMER:** I think they --

21 **DR. MELIUS:** -- as you can.

22 **DR. ZIEMER:** -- determined that later.

23 **MS. HOMOKI-TITUS:** Counsel will. I'm sorry,
24 that determination was made later.

25 **DR. ZIEMER:** Yeah.

1 **DR. MELIUS:** Okay, that's fine.

2 **DR. ZIEMER:** Okay. Ready to vote on this
3 motion?

4 All in favor, say aye?

5 (Affirmative responses)

6 Any opposed?

7 (No responses)

8 Any abstentions?

9 (No responses)

10 Mark, are you in favor of the motion? You
11 don't know what it is, but --

12 **DR. MELIUS:** You're in charge of another
13 working group.

14 **MR. GRIFFON:** (Off microphone) (Unintelligible)

15 **DR. ZIEMER:** Right. We're going to consider
16 that you voted for it, unless you tell us
17 otherwise.

18 Any abstentions?

19 (No responses)

20 **DR. WADE:** As a matter of procedure, I would
21 like -- we would like to do this, you know,
22 quickly, so let's say if any member has
23 comments, to get them to me by Wednesday of
24 next week and then I'll turn them over to
25 Counsel with an aim to post things maybe the

1 end of next week.

2 **DR. ZIEMER:** Okay. Thank you very much. Thank
3 you, Liz.

4 **POLICY ON CAPITOL HILL VISITS**

5 Next let's move to the policy on Capitol Hill
6 visits. This -- this is a motion that's
7 already on the floor and we -- we didn't really
8 table it, we just allowed it to, as it were,
9 linger in the background. This is a single
10 sheet of paper that says Advisory Board on
11 Radiation and Worker Health Statement of
12 Policy. And then it has three paragraphs.
13 This is Wanda Munn's suggestion. We had some
14 preliminary discussion on it, and so we'll now
15 open the floor again for additional discussion.
16 Dr. Melius.

17 **DR. MELIUS:** I actually have a procedural
18 question. I thought I was asked, but maybe I
19 did this spontaneously -- came up with an
20 alternative motion or statement of this motion
21 that I think tries to capture some of the same
22 issues, but address some of the concerns that
23 were raised by the Board. And I don't know how
24 you want to handle it procedurally --

25 **DR. ZIEMER:** Well, let me suggest the following

1 then.

2 Sometimes it's easier to handle a motion and
3 then -- and then handle an alternate than try
4 to amend the original one. What -- what could
5 be allowed would be an indication of, for
6 example, if this motion were defeated I would
7 offer the following substitute motion --

8 **DR. MELIUS:** Yeah.

9 **DR. ZIEMER:** -- so that the assembly has some
10 idea of what it is that would be offered as an
11 alternative. In essence, you are saying I am
12 speaking against this motion, but I like parts
13 of it and I would frame it in a somewhat
14 different way, I guess is what you're -- you
15 seem to be saying.

16 **DR. MELIUS:** I -- I --

17 **DR. ZIEMER:** I don't want to make it sound like
18 you're too friendly to Wanda's motion, but --
19 but there's a degree of friendliness that has
20 emerged here.

21 **DR. MELIUS:** And -- and I also would -- in that
22 context would I think -- believe that how I
23 might word such an alternative motion has been
24 handed out to everybody, has it not?

25 **DR. WADE:** I'm waiting for it.

1 **DR. MELIUS:** Oh, okay.

2 **DR. ZIEMER:** Well, just characterize it for us
3 so that we have that --

4 **DR. MELIUS:** I would characterize it --

5 **DR. ZIEMER:** -- in our minds as we proceed.

6 **DR. MELIUS:** Yes, yes. I would prefer
7 something worded to the effect of recognizing
8 that the credibility of the EEOICPA program and
9 the work of this Advisory Board can be enhanced
10 by communicating these efforts to Congressional
11 staff, it is the policy of the Board to
12 encourage such meetings when they are
13 requested. The scheduling of such meetings
14 should be communicated to all Board members.
15 Board members that wish to participate in the
16 meeting should inform the Board Chair and
17 contractor, who will then communicate with the
18 Congressional staff to determine whether the
19 staff would like to also invite the Board
20 member or members to attend the meeting.
21 The Board also understands that our contractor
22 must notify NIOSH about these official visits,
23 and should ensure that their staff takes
24 appropriate precautions to properly
25 characterize the status of the information

1 being communicated. Further, Board members
2 participating in such meetings will
3 appropriately communicate any potential
4 conflict of interest issues to the
5 Congressional staff.

6 **DR. ZIEMER:** So the thrust of that would be to
7 make it more of an option on the part of the
8 Congressional staff to make the invitation, as
9 opposed to suggesting that it's more mandatory.
10 Is that --

11 **DR. MELIUS:** Correct, I don't believe we can
12 sort of force the Congressional staff, nor do
13 we wish to force the Congressional staff to
14 invite Board members, but I think we can make
15 the offer. I think that's appropriate. And I
16 --

17 **DR. ZIEMER:** Right.

18 **DR. MELIUS:** -- was trying to set up a
19 procedure that would address that, and I was
20 also trying to address some of the other
21 concerns --

22 **DR. ZIEMER:** Right, right.

23 **DR. MELIUS:** -- raised in Wanda's...

24 **DR. ZIEMER:** Okay. Others -- we're still
25 dealing with the main motion now which is

1 before us to -- pro or con or other comments.
2 Yes, Wanda.

3 **MS. MUNN:** The only problem I have with Jim's
4 approach is what I see as an abrogation of
5 responsibility of the Board. Perhaps I'm just
6 being too rigid in my view of how things
7 operate, but it seems to me that Congressional
8 inquiry should be made to the Board which has
9 been established by Congress, rather than by
10 the Board's employee. And if I am erroneous in
11 my view, then clearly Jim's suggestion is the
12 appropriate way to go. But it seems to me that
13 this Board should decide for themselves whether
14 inquiries about our activities should come
15 through us or whether they should come through
16 our employees. That really is the basic issue.

17 **DR. ZIEMER:** Right --

18 **DR. WADE:** Could I --

19 **DR. ZIEMER:** Yes, and I think Lew has als--
20 previously commented, but you may want to
21 clarify that, because part of this issue is can
22 we in fact dictate to Congress who they ask to
23 speak to.

24 **DR. WADE:** Right, and I made my position clear
25 and I won't -- and I won't repeat it, but it

1 still holds, regardless of the motion. But I
2 think also requests can come to the agency for
3 -- from the Hill, and the agency intends to
4 respond to those requests as it sees fit. Now
5 we will be guided by the spirit of anything you
6 do, but the agency will not surrender its
7 ability to decide how to deal with such
8 requests.

9 **MS. MUNN:** (Off microphone) (Unintelligible)
10 not.

11 **DR. ZIEMER:** Okay.

12 **DR. MELIUS:** And I -- can I just add --

13 **DR. ZIEMER:** Yes.

14 **DR. MELIUS:** -- I think this is a difficult
15 area 'cause the agency and the Congressional
16 offices may have different interpretations of
17 what they're allowed or not allowed to do, and
18 who can handle what situations. I think the
19 intent has been, on everyone's part, to be
20 responsive and that this is helpful. And I
21 think in -- it's very difficult for us to
22 capture in any memo all -- all the
23 contingencies, all the possible situations. I
24 think it was -- I think what I was trying to
25 capture in my alternative to Wanda's memo was

1 sort of a procedural way to inform people and -
2 - while recognizing, to an extent, the
3 independence of NIOSH, as well as the
4 independence of the Congressional staff and --
5 in making these requests.

6 **DR. WADE:** And NIOSH has no problem with
7 receiving such advice as proposed in the
8 motion.

9 **DR. MELIUS:** Yeah.

10 **DR. ZIEMER:** Okay. Further discussion, pro or
11 con, or questions?

12 (No responses)

13 Okay. Then we are -- we are voting on -- or --
14 or any amendments to the Munn motion?

15 (No responses)

16 Now one -- one possibility -- let me offer --
17 there is one possibility, because there is a
18 level of similarity in the motions. They --
19 they differ mainly in the issue of -- sort of
20 the degree of which it appears to be mandatory
21 that the requests come through the Board. One
22 possibility is -- is a motion that -- that one
23 -- that the second version be substituted for
24 the first, as opposed to simply going through a
25 straight vote on one and then on another. I

1 say this -- I don't want to anticipate
2 necessarily how the Board will vote, but it
3 appears to the Chair that there may not be
4 widespread support for the original motion as
5 it stands. But if someone wishes to move that
6 we substitute a motion which is somewhat
7 similar but has that main difference, we can
8 handle it that way, as well.

9 **DR. MELIUS:** I would so move.

10 **MR. GRIFFON:** Second.

11 **DR. ZIEMER:** It's moved and seconded that we
12 substitute what I will call the Melius motion
13 for the Munn motion. Now if -- if we vote to
14 do that, then the Melius motion will replace
15 the Munn motion as the motion under discussion.
16 Okay? Is that -- everybody understand?
17 Now you can challenge the Board's ruling on
18 that and prove to me from Robert's Rules that
19 I've done that wrong, but I think I can do that
20 properly.

21 Okay, then the -- we're voting now on
22 substituting one motion for another. Okay?
23 All in favor of substituting the Melius motion
24 for the Munn motion, say aye?

25 (Affirmative responses)

1 Now all opposed, say no.

2 (Negative responses)

3 There's no -- two no's.

4 Then the Chair declares that the motion passes
5 and we now have before us the Melius motion to
6 discuss. Pro or con or amendments?

7 (No responses)

8 I would point out the second paragraph should
9 read "The Board also understands".

10 **DR. MELIUS:** Yes.

11 **DR. ZIEMER:** Consider that a friendly typo
12 correction or something.

13 **DR. ROESSLER:** Could I add a grammatical
14 change?

15 **DR. ZIEMER:** Yes, you can -- if somebody can
16 figure out how to take care of the dangling
17 participle in the first sentence.

18 **DR. ROESSLER:** Well, I hadn't even worried
19 about that one, but I'd like in the third
20 sentence -- and I enjoy picking on Jim -- to
21 say "Board members who" rather than "that".

22 **DR. MELIUS:** Yeah.

23 **DR. ZIEMER:** You consider that a friendly
24 amendment?

25 **DR. MELIUS:** If I could also pick on Jim, in

1 the second paragraph, the -- second line, the
2 first word, I think "visits," should be plural
3 so --

4 **DR. ANDERSON:** Just take out the --

5 **DR. ZIEMER:** No, what -- what you need to do on
6 the dangling participle is that whoever is
7 doing the recognizing has to be the subject of
8 the sentence, so it can't be "it is". You have
9 to say "the Board" -- "the Board's policy is".
10 Then the participle is no longer dangling. We
11 don't like them to dangle. So that's simply a
12 grammatical -- it doesn't change the meaning.
13 Now any substantive amendments or other items
14 that anyone wishes to add?

15 **DR. MELIUS:** I have an issue. I think that --
16 I just want to make -- ask a question. Is --
17 it's for both Paul and -- as well as our
18 contractor. Is that policy about informing
19 appropriate, where we have I've asked that the
20 meeting should -- Board members who wish should
21 inform the Board Chair and the contractor. Now
22 often cases it's John Mauro or somebody in his
23 office who is sort of handling the contact with
24 the Congressional staffs, but I -- so I was
25 figuring that then they may be very well the

1 person following up, but at least Paul would --

2 **DR. ZIEMER:** Where are you -- what sentence are
3 you --

4 **DR. MELIUS:** I'm on the -- oh, fourth line of
5 the first paragraph, "Board members who wish to
6 participate in the meeting should inform the
7 Board Chair and contractor, who will then
8 communicate with," et cetera.

9 **DR. ZIEMER:** Well, I have no problem with that,
10 right. And -- and actually what happens now
11 under our present policy -- for example, if
12 John notifies me that he's been invited -- and
13 under the guidance of this Board, from -- any
14 such contacts from the contractor come to me, I
15 immediately will make you aware of them. So
16 the Board will -- or John, I think, has
17 actually --

18 **DR. MELIUS:** Yeah.

19 **DR. ZIEMER:** -- copied everybody now, is that -
20 - eliminates a step so that we become aware
21 that a visit has been -- or there's been an
22 invitation to a visit. Under this policy, if
23 any Board members wish to participate, they
24 would immediately notify the Chair and the
25 contractor, who would then be in a position to

1 say oh, by the way, this member of our Board is
2 available to participate in this visit if so
3 desired. That's how I would understand this
4 policy. Is -- is that everybody's
5 understanding? And then under this policy it's
6 -- the final call is with the office on the
7 Hill, whoever --

8 **DR. WADE:** No.

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

10 **DR. WADE:** The final call is with the agency.

11 **DR. ZIEMER:** Oh, with the agency, okay. So how
12 -- how do we make sure you're in the loop?

13 **DR. WADE:** I don't -- you don't need to make
14 sure. I'll make sure, as long as you
15 understand that's what I'm going to do.

16 **DR. ZIEMER:** Yeah, well, I mean you -- you
17 automatically get notified, also, when John --

18 **DR. WADE:** Right.

19 **DR. ZIEMER:** -- gets these invitations, right.

20 **MS. MUNN:** That's what the policy says.

21 **MR. GRIFFON:** Yeah.

22 **MS. MUNN:** The contractor must notify NIOSH.

23 **DR. ZIEMER:** Right.

24 **DR. ANDERSON:** Just as a point of
25 clarification, I guess, if a Board member

1 offers to go as -- are they going to be
2 attending on behalf of the Board, is NIOSH
3 going to pay for their travel, or is this --
4 you're interested and if you want to go, you go
5 on your own, or is this part of a Board
6 activity?

7 **DR. ZIEMER:** Lew, can you speak to that? The
8 Chair would hope that it would be an official
9 part of the activity, otherwise I'm not sure we
10 can expect Board members to do this on their
11 own.

12 **DR. WADE:** Right. I mean -- the general answer
13 is yes, we would consider it part of your
14 official activity. One of the concerns I have
15 that we'll talk about at a subsequent meeting
16 is we -- we have to watch how much we work you
17 in a given year. There are limits. So we have
18 to watch what this might add to the workload,
19 and all that needs to be managed. But if under
20 this policy it was to be deemed that a Board
21 member would go on such a visit, we would be
22 prepared to cover the expense.

23 **DR. ZIEMER:** And again I point out that under
24 such a visit, Board members are essentially in
25 the capacity of observers. You cannot speak

1 for the Board, other than where the Board has
2 already made decisions or has a policy that can
3 be --

4 **DR. ANDERSON:** I would --

5 **DR. ZIEMER:** -- expressed.

6 **DR. ANDERSON:** I would also point out that one
7 can't go and expound (sic) your personal
8 opinion on -- basically lobby legislators --

9 **DR. ZIEMER:** Right.

10 **DR. ANDERSON:** -- if you're there as a Special
11 Government Employee, so --

12 **DR. ZIEMER:** That's right.

13 **DR. ANDERSON:** -- that's why I was asking the -
14 - the issue that people need to know. If you
15 go there and get into a discussion that the
16 legislative group thinks --

17 **DR. ZIEMER:** Right.

18 **DR. ANDERSON:** -- you're espousing a --

19 **DR. ZIEMER:** Now it --

20 **DR. ANDERSON:** -- particular position, it's
21 (unintelligible).

22 **DR. ZIEMER:** It's also conceivable that a Board
23 member could be at such a meeting in a
24 different capacity, and that would be as a site
25 expert, in which case they would have to make

1 it clear that they are not there as a Board
2 member. For example, if the -- let's say that
3 one of the Congressional staffers wanted to
4 learn something about Y-12 and -- and they said
5 oh, we'd love to have Bob Presley there 'cause
6 he's been there a lot. He would be there as a
7 site expert citizen, coincidentally maybe --
8 and they may regard it different if he's a
9 Board member, but it would have to be made
10 clear that he cannot be there in that capacity
11 representing, as it were, the Board.

12 **DR. WADE:** And in that case --

13 **DR. ZIEMER:** I believe that's the case.

14 **DR. WADE:** Right.

15 **DR. ZIEMER:** In that case, we can't pay for it
16 --

17 **DR. WADE:** In that case the government would be
18 --

19 **DR. ZIEMER:** -- the government --

20 **DR. WADE:** -- paying for the trip.

21 **DR. ZIEMER:** -- couldn't pay for it, either.

22 **DR. ANDERSON:** (Off microphone) My only point
23 was the ethics issue is one of (unintelligible)
24 --

25 **DR. ZIEMER:** Right.

1 (No responses)

2 Any abstentions?

3 (No responses)

4 Thank you. The motion carries.

5 **DR. WADE:** Just to belabor a point that I've
6 already made, we -- we accept the motion and
7 its intent and would -- would attempt to follow
8 it. SC&A is a government contractor. The
9 contracting officer and the Secretary must
10 reserve the right to manage that contractor as
11 it sees fit with regard to Hill visits. But I
12 -- I assume we will live consistent with this
13 spirit. If we don't, we'll bring that
14 information to you.

15 **APPROVAL OF MINUTES**

16 **DR. ZIEMER:** Finally, we have -- well, actually
17 there's -- there's two items. One is action on
18 minutes from the Cedar Rapids meeting, April
19 25th. We did not approve these at our last
20 meeting because we ran out of time and ran out
21 of quorum. There's two sets of minutes, one
22 the subcommittee minutes from April 25th and
23 the other the full Board minutes from April
24 25th to 27. First the Chair would entertain a
25 motion to accept the subcommittee minutes from

1 that meeting.

2 **MR. GIBSON:** So moved.

3 **DR. ZIEMER:** Moved, seconded?

4 **DR. ANDERSON:** (Off microphone)

5 (Unintelligible)

6 **DR. ZIEMER:** Any corrections or additions?

7 (No responses)

8 If there are none, all in favor of approval of
9 those minutes, say aye?

10 (Affirmative responses)

11 Any opposed, no?

12 (No responses)

13 Thank you. As I call for action on the April
14 25th full Board meeting, I'd like to do this in
15 the context that if in fact you find any
16 grammatical or typo corrections after the fact
17 that you weren't aware of, we will pass those
18 along as well to -- to the staff for
19 correction, but is there a motion to accept the
20 minutes for the April 25th through 27th Board
21 meeting?

22 **MR. PRESLEY:** So moved.

23 **DR. ZIEMER:** And seconded?

24 **MR. GIBSON:** (Unintelligible)

25 **DR. ZIEMER:** Yes, Gibson seconds. Any

1 corrections or additions on those minutes, and
2 I ask you to particularly look over those items
3 where you yourself made statements or
4 assertions or other comments, make sure that
5 they accurately reflect what you think you
6 said.

7 Are you ready to vote? The Chair did forget to
8 remind you to read these, but you've had them
9 for several days. If there are serious
10 corrections, I suppose we can accept them after
11 the fact, but we'd like to get these in -- in
12 the record as our official minutes. Are you
13 comfortable with voting? Yes.

14 Okay. All in favor, say aye?

15 (Affirmative responses)

16 Any opposed, no?

17 (No responses)

18 And abstentions?

19 (No responses)

20 Motion carries, the minutes are approved for
21 the April meetings.

22 **SC&A SITE PROFILES**

23 Then finally SEC (sic) profiles. It would be
24 helpful if we could at least establish the
25 front end of the priorities. We may not

1 necessarily have to do them all, but put a
2 priority ranking on the upcoming site profile
3 work for the contractor. The list --

4 **MR. GRIFFON:** (Off microphone) You mean
5 (unintelligible) SC&A (unintelligible) site --

6 **DR. ZIEMER:** For our contractor.

7 **DR. WADE:** You said SEC.

8 **DR. ZIEMER:** I'm sorry.

9 **DR. WADE:** I do it all the time.

10 **DR. ZIEMER:** There are too many S -- SEC
11 petition -- no, SC&A --

12 **DR. WADE:** Site profile.

13 **DR. ANDERSON:** (Off microphone)
14 (Unintelligible) list but we didn't put it in
15 an order.

16 **DR. WADE:** At least the first couple so we can
17 get them (unintelligible).

18 **DR. ZIEMER:** I'll remind you again of -- the
19 front end of the list, we have Fernald, Los
20 Alamos, Mound, X-10, Pinellas, and then we have
21 Argonne West and...

22 **MS. MUNN:** Livermore. Livermore.

23 **DR. ZIEMER:** Livermore.

24 **DR. WADE:** Well, let's -- let's
25 (unintelligible) that question.

1 **DR. ANDERSON:** Are there any SECs from any of
2 these?

3 **MS. MUNN:** Linde.

4 **DR. MELIUS:** Yeah, we have Linde.

5 **DR. ZIEMER:** Linde was added.

6 **DR. WADE:** If I might, I think the six were
7 Fernald, LANL, Mound, X-10, Pinellas and Linde
8 --

9 **DR. ZIEMER:** Yes.

10 **DR. WADE:** -- and the alternatives were Argonne
11 West and Livermore.

12 **DR. ZIEMER:** That's correct. If we can at
13 least get the first three or four, it would be
14 helpful. Henry, do you have a suggestion?

15 **DR. ANDERSON:** Yeah, are -- are any of these
16 have SEC petitions that are going to be coming
17 up shortly?

18 **DR. ZIEMER:** Stu Hinnefeld will address that
19 for us.

20 **MR. HINNEFELD:** None of these six have
21 petitions that have currently qualified for
22 evaluation.

23 **DR. ANDERSON:** Okay.

24 **DR. ZIEMER:** Thank you. Yes.

25 **MR. OWENS:** Stu, what about Livermore?

1 **MR. HINNEFELD:** We have -- no, there is not --
2 there is a not a petition that has qualified
3 for evaluation. Remember, a petition's
4 received, the first step is to qualify it for
5 evaluation, and there haven't been any from
6 these sites that are qualified for evaluation.

7 **DR. MELIUS:** Yeah, but -- how about -- can you
8 just tell us about petitions?

9 **MR. HINNEFELD:** Petitions in-house? I don't
10 know that off the top of my head.

11 **DR. MELIUS:** Okay, that's fair enough then.
12 Okay.

13 **DR. ZIEMER:** Robert?

14 **MR. PRESLEY:** We went ahead and listed Fernald
15 and Mound, Pinellas and Linde Ceramics. Those
16 four places are all either in a shut-down mode
17 or about to be shut down. I would love to see
18 those done first while the people that can help
19 us get the information are still here to do
20 that. And --

21 **DR. ZIEMER:** So you're suggesting those four --

22 **MR. PRESLEY:** What -- what order those four go
23 in, I don't care as long as they're -- they're
24 at the top of the list because the -- the
25 people that know about those sites are

1 dwindling away.

2 **DR. MELIUS:** What were the four again, Bob?

3 I'm sorry.

4 **MR. PRESLEY:** Fernald --

5 **DR. MELIUS:** Right.

6 **MR. PRESLEY:** -- Mound --

7 **DR. MELIUS:** Yeah.

8 **MR. PRESLEY:** -- Pinellas --

9 **DR. MELIUS:** And Linde.

10 **MR. PRESLEY:** -- and Linde Ceramics.

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

12 **MR. GIBSON:** I know that Pinellas has already

13 been deeded over to the county, and you know, I

14 agree with Bob that -- I would suggest we go in

15 the order of their date of closing. You know,

16 begin --

17 **DR. ZIEMER:** So you're suggesting Pinellas be

18 right there at the top of the list.

19 **MR. GIBSON:** 'Cause -- it may be too late.

20 **MR. PRESLEY:** It may be too late.

21 **MR. GIBSON:** But then certainly go by the order

22 of closing dates scheduled by DOE.

23 **DR. ZIEMER:** Are you making that as a motion?

24 **MR. GIBSON:** Yeah.

25 **DR. ZIEMER:** Second?

1 **MR. PRESLEY:** Second.

2 **DR. ZIEMER:** So the suggestion -- or the motion
3 is to rank those top four as the priority ones
4 in the order at which the -- which we don't
5 know at the moment, but we can find out,
6 whatever that is. Is that correct? That is
7 the motion.

8 Okay. Jim?

9 **DR. MELIUS:** I have one concern about that
10 approach, and I'm not quite sure how to balance
11 it. But Los Alamos is a large site and there's
12 a lot of pending cases there. And I think we
13 need to some extent balance the number of
14 claimants -- potential claimants that could be
15 helped by the site profile review versus this
16 closing issue, and it's tough. Obviously
17 there's -- there has to be some prioritization
18 and so forth, but I -- I -- my sense is that we
19 may be holding up a lot of -- there's been talk
20 of SEC petitions from Los Alamos. I would not
21 be surprised to see some at some point soon,
22 and I certainly would like to have something
23 underway there. I think it --

24 **DR. ZIEMER:** Okay.

25 **DR. MELIUS:** -- and it could -- helpful, but --

1 **MR. PRESLEY:** I think -- I think ORNL or X-10
2 falls in the same category.

3 **DR. MELIUS:** Yeah, I know, I know, it's --

4 **DR. ANDERSON:** (Off microphone) We're back
5 (unintelligible).

6 **MR. PRESLEY:** (Off microphone) Yeah,
7 (unintelligible).

8 **DR. ZIEMER:** Let me ask this question. Are
9 there any of those four where the -- the shut-
10 down is not quite so imminent that we might be
11 able to delay them -- I mean if the shut-down's
12 over a year off, maybe we can -- do we know
13 shut-down dates on any of these? Stu, do you
14 have...

15 **MR. HINNEFELD:** Mike might know better than me.
16 I believe that -- I can only speak for Fernald,
17 and I believe its shut-down date is sort of the
18 end of next calendar year, so --

19 **DR. ZIEMER:** Do we know, for examp--

20 **MR. HINNEFELD:** Or about this time next year.

21 **DR. ZIEMER:** Okay. Mike, do you know on any --

22 **MR. GIBSON:** I think Mound is scheduled for
23 closure even before that, I think by -- by the
24 end of the calen-- this calendar year I believe
25 will just be people doing records and decision.

1 The work will be done.

2 **DR. ZIEMER:** One possibility would be, for
3 example, to -- to pick up Mound and -- or
4 Pinellas and -- did you -- was that Mound or
5 Fer-- no, Mound -- Pinellas and Mound early on,
6 and then work in one of these big -- either --
7 either Los Alamos or X-10 --

8 **DR. MELIUS:** Can --

9 **DR. ZIEMER:** -- or both.

10 **DR. MELIUS:** Can I make a suggestion that we
11 might want to consider, which would be to have
12 our contractor work with NIOSH and get a little
13 more detailed information about this closing
14 issue and timing, and then appropriately
15 prioritize their work? I think they -- they
16 know which ones we've recommended be done. I
17 think they know the issues. But I think it may
18 very well be with a little additional
19 information we can make a -- they can make a
20 better --

21 **DR. ANDERSON:** Pinellas isn't done yet.

22 **DR. MELIUS:** Yeah.

23 **DR. ANDERSON:** Site profile isn't done.

24 **DR. MELIUS:** Right, and -- and -- yeah, that's
25 another issue that -- I think when we asked

1 yesterday, there was a -- pretty close to being
2 done, but --

3 **DR. ZIEMER:** Yeah.

4 **DR. MELIUS:** -- but I think if we leave it up
5 to them, recognizing the -- the need to balance
6 the issue about availability of information
7 versus the number of cases and --

8 **DR. ZIEMER:** Right, and I --

9 **DR. MELIUS:** -- potential for --

10 **DR. ZIEMER:** -- think we heard that Pinellas in
11 fact would be done by the time they started --

12 **DR. MELIUS:** Yeah.

13 **DR. ZIEMER:** -- the next fiscal year, in any
14 event. Mark?

15 **MR. GRIFFON:** I -- I would -- I would go along
16 with what Jim's saying. We can make it clear
17 on -- on the record here what our preference
18 is, and then let the contractor decide what
19 makes more sense in terms of sorting that out.
20 Factors including closure, the number of
21 claimants, and another factor that I wanted to
22 throw out here was the classified issues that
23 potentially arise. And Los Alamos, Mound are
24 big on that certainly -- maybe Livermore,
25 Pinellas --

1 **MR. PRESLEY:** (Off microphone) Pinellas
2 (unintelligible).

3 **MR. GRIFFON:** -- right, and we've seen right
4 now with the Y-12 profile -- you know, we can
5 have some delays there, so it might be good to,
6 you know -- so they've got to weigh -- but I
7 think we should say consider these factors and
8 -- and let them kind of weigh -- weigh them
9 against each other.

10 **DR. ZIEMER:** Okay. It appears to me that we
11 are calling for a modification of the original
12 motion. The original motion was to do Fernald,
13 Mound, Pinellas and Linde, and it appears now
14 that we're suggesting either an alternate
15 motion or a revision to that. Mike?

16 **MR. GIBSON:** I'd -- I'd be agreeable to modify
17 it to say based on date of closure and, you
18 know, the potential isotopes and the other
19 issues we've mentioned. You know, just kind
20 of...

21 **DR. ZIEMER:** Okay. And I would point out that
22 now we've identified your four plus Los Alamos
23 and X-10 -- we actually have six now that we're
24 sort of asking about how those might -- which -
25 - which is -- six is what we really have on our

1 schedule for next year, and where to start
2 those will -- would depend then on the
3 findings, and that could be reported back to us
4 at our next meeting.

5 Can I interpret your motion now as being those
6 four plus the other two identified?

7 Is that agreeable as reasonably friendly and
8 that we ask contractor, working with NIOSH, to
9 establish that information and propose a
10 priority list to us?

11 **MR. PRESLEY:** Back to us in October.

12 **DR. ZIEMER:** Is that agreeable --

13 **DR. MELIUS:** Yeah.

14 **DR. ZIEMER:** -- as the motion? Does that give
15 us enough, Lew, to get underway and get going?

16 **DR. WADE:** Yes.

17 **DR. ZIEMER:** Yes. Then let's vote on the
18 motion.

19 All in favor, aye?

20 (Affirmative responses)

21 And no's, opposed?

22 (No responses)

23 Any abstentions?

24 (No responses)

25 And the motion carries.

1 **DOL'S POSITION ON NON-COVERED CANCERS**

2 **DR. WADE:** We have the DOL issue and then we
3 have --

4 **DR. ZIEMER:** Okay, there was an issue -- a
5 question that was raised -- actually raised by
6 the petitioners with respect to if the Special
7 Exposure Cohort was approved, the status of
8 those who would not otherwise be successful in
9 that process, and you have an answer to that.

10 **DR. WADE:** Well, I also see and DOE -- DOL
11 colleague in the front row. Would you like to
12 speak to it or you want me to speak to it?
13 Okay. The question was raised, what would
14 DOL's position be on the non-covered cancers
15 should this SEC petition be approved. And the
16 DOL position is that they would have to with--
17 await that judgment pending the Secretary's
18 determination and the exact language in the
19 Secretary's determination. That would provide
20 them the information they would need to decide
21 how to proceed with non-covered cancers.
22 That's not inconsistent with what you tried to
23 do in your mot-- in your recommendations to the
24 Secretary to try and deal with that issue, but
25 DOL can't decide on that question then until it

1 sees the Secretary's determination.

2 I would tell you, as you well know, that your
3 recommendation to the Secretary could well
4 affect the Secretary's determination.

5 **DR. ZIEMER:** So the short answer is we don't
6 know yet, but it will await the additional --
7 or the actual formal decision by the Secretary.
8 Yes.

9 **MS. CASE:** This is Diane Case. I just wanted
10 to state for the record that Dr. Wade spoke
11 very eloquently there and very accurately, so -
12 -

13 **DR. ZIEMER:** You agree with --

14 **MS. CASE:** -- I appreciate that.

15 **DR. ZIEMER:** -- what he said --

16 **MS. CASE:** Yes --

17 **DR. ZIEMER:** -- on your behalf.

18 **MS. CASE:** -- absolutely.

19 **DR. ZIEMER:** Thank you.

20 **DR. WADE:** DOL -- DOL and I are very close.

21 **DR. ZIEMER:** What else?

22 **DR. WADE:** We have this last item which Stu --
23 Stu, are you in a position to cover your agenda
24 item?

25 **TASK IV FOR CONTRACTOR**

1 **DR. MELIUS:** We have one other issue, also,
2 which is a motion, Paul, you asked me to do
3 about the task four for our contractor --

4 **DR. ZIEMER:** Oh, yes --

5 **DR. MELIUS:** -- the scope. It should be very
6 quickness.

7 **DR. ZIEMER:** -- okay. Go ahead, let's -- let's
8 take care of that.

9 **DR. MELIUS:** And has that been handed out?

10 **DR. WADE:** (Off microphone) (Unintelligible)
11 copies --

12 **DR. MELIUS:** Okay.

13 **DR. WADE:** -- (unintelligible).

14 **DR. MELIUS:** I understand. Okay. Well, we'll
15 give Lew a second 'cause -- let me -- I'll
16 start reading through it so it'll get entered
17 on the record.

18 The Board recommends that SCA respond to the
19 following scope for task four, its individual
20 dose reconstructions.

21 Number one, 40 basic and 20 advanced dose
22 reconstruction reviews -- you'll have to
23 forgive -- my spell checker changed dose to
24 does, or my spelling did -- typing.

25 Number two, blind dose reconstruction reviews

1 for two cases.

2 Number three, prepare and deliver a report for
3 each set of Board-assigned cases that will
4 contain (1) findings associated with individual
5 case audits, and (2) a summary of all case
6 findings prepared in accordance with a format
7 acceptable to the Board.

8 Number four, participate in extended review
9 cycle, which includes working with NIOSH and
10 the Board in resolving audit findings, and
11 assist the Board in preparing an issues
12 tracking matrix which will be forward by the
13 Board to the Secretary of HHS; prepares a final
14 audit report that reflects the results of the
15 findings resolution process.

16 And actually two through four are lifted from -
17 - they already proposed. The only real change
18 was number one, and then additional
19 clarification: In preparing the advanced
20 reviews, it is understood that SCA is not
21 required to evaluate the availability of
22 additional data sources for cases where a site
23 profile review is being or has been conducted.
24 And --

25 **DR. ZIEMER:** Thank you. That comes as a motion

1 before us now based on the Board's previous
2 discussion and the fact that we are asking our
3 contractor to go back and revise the cost
4 estimates for that particular task, which they
5 committed to do. Let me ask for a second for
6 the motion.

7 **MR. PRESLEY:** (Indicating)

8 **DR. ZIEMER:** It's been seconded by Mr. Presley.
9 Is there any discussion on the motion?

10 (No responses)

11 There appears to be no discussion, ready to
12 vote.

13 All in favor, aye?

14 (Affirmative responses)

15 Any opposed, no?

16 (No responses)

17 Motion carries. Thank you very much.

BOARD DISCUSSION:

18 **HEADS-UP ON SEC PETITION**

19 Then we'll hear from Stu on the heads-up on SEC
20 petitions.

21 **DR. WADE:** Right, he should be in the room in
22 just a moment.

23 **DR. ZIEMER:** In just a moment.

24 **DR. WADE:** Here he comes -- Stu, you're on.

25 **MR. HINNEFELD:** I think I can once again be

1 brief -- maybe not quite as brief as last time.
2 I'm here to talk a little bit about a subject
3 that we think will be brought to the Board at
4 the October meeting, and it has to do with dose
5 reconstruction cases where NIOSH has determined
6 we cannot do a dose reconstruction because
7 there's insufficient information. So we've not
8 received a petition from a petitioner, it's
9 just we've -- based on the information
10 available, we cannot do a dose reconstruction.
11 When this program started, NIOSH built the
12 infrastructure and the tools to be able to do
13 dose reconstruction. By the time we were ready
14 to do dose reconstructions, there was a large
15 backlog of cases, and so our first priority was
16 let's get some cases done that we can get done.
17 And as a result, some -- we -- we paid
18 attention to chronological order. We paid
19 attention to the first cases, but we didn't
20 necessarily strictly abide by first in/first
21 out. And so as a result, there were cases that
22 were maybe more difficult that were older and
23 that stayed undone. So this year we have
24 focused our efforts on older cases and trying
25 to clear out those older cases because clearly

1 people deserve an answer on their claim.
2 As part of that process, since we are no longer
3 just picking cases we can do but we wanted to
4 clear out those older cases, we now have to --
5 we are reaching determinations that there are
6 some where we just will not have enough
7 information to do dose reconstruction, and
8 there doesn't seem to be any likelihood that
9 we're going to find enough to do dose
10 reconstructions.
11 And so the regulations provide a process for
12 dealing with that. The dose reconstruction
13 regulation, Part 82, describes what steps are
14 taken when NIOSH reaches that conclusion that
15 we don't have enough information to do a dose
16 reconstruction for this case. And at that
17 point we send -- we notify the claimant, tell
18 them in writing -- we also have a conversation
19 with them, we have a closeout phone call, and
20 tell them that we don't have enough information
21 to do your case, is there anything you can add
22 -- we doubt that they can. We don't really
23 expect to learn anything at that point. And
24 kind of inform them about the process.
25 The process is that we tell Labor and

1 Department of Energy that we can't reconstruct
2 this dose. Labor closes this case with a
3 denial regulatorily, and we provide -- when we
4 send to the person -- we send written notice to
5 the claimant we can't do their reconstruction,
6 we also send along the short-form SEC petition.
7 And as part of our conversation with them ahead
8 of time to explain to them what's going to
9 happen is that since we can't do this dose
10 reconstruction, we would -- we would like you
11 to sign the petition form that we're mailing to
12 you and send it back as a petition for SEC
13 status, to add a class of SEC.
14 So the -- so the point where we are now is that
15 we are identifying sites where -- for some
16 period of time at least at that site -- we
17 don't -- it doesn't seem to be any likelihood
18 that we're going to find enough information to
19 do dose reconstructions for that period of
20 time. And we have -- and to go through this
21 process, we are identifying a test case for --
22 when we identify a site like that -- a test
23 case to send the letter to to say that -- you
24 know, to engage in conversation with, send the
25 letter to, and request the petition back for

1 this -- for that -- that person. He petitions
2 on his -- on his own behalf.

3 Our petition evaluation, though, defines the
4 class in terms of all the cases that have those
5 similar characteristics. Now the easiest way
6 to think of this would be temporally. For
7 instance, there may be a period of time at a
8 particular site where we just don't have enough
9 information -- say very early on, just don't
10 have enough information to do a dose
11 reconstruction. And so we will define -- when
12 we get that petition, the petition evaluation
13 will define the class of similar employees and
14 bring that petition evaluation and report to
15 the Board. This -- we expect this to be
16 somewhat streamlined, and so -- but it is
17 presented to the Board and we recommend to the
18 Board and to the Secretary that this class be
19 added because we have not been able to find
20 sufficient information to do the dose
21 reconstructions.

22 So I think we'll -- I think the Board -- you
23 know, it's hard for me to say for sure that the
24 Board will see them in October because a
25 portion of this process is outside NIOSH's

1 control. A portion of this process is in the
2 claimant's hands in terms of signing the
3 petition and sending it in, or choosing to
4 participate in this process. So -- but we
5 think we will have -- this process will appear
6 at the October Board meeting.

7 We wanted to essentially make this notification
8 that you can expect to see something like that
9 shortly anyway, and also I'd be glad to try to
10 answer any questions anybody might have about
11 what to expect.

12 **DR. ZIEMER:** Stu, are you suggesting that there
13 might be a large number of petitions that --
14 each of which involves a relatively small
15 number of individuals? Or are you suggesting
16 that there be a methodology for combining such
17 groups, even though they may be from multiple
18 facilities in some way?

19 **MR. HINNEFELD:** I believe today the process
20 would be to do a site at a time. I think there
21 may be a way to combine them. I don't -- I
22 don't know if there's a way to bundle many
23 sites into one or not. Initial thought process
24 is that we will identify the site and it's a --
25 and it's a one-site thing.

1 **DR. ZIEMER:** But you're simply giving us a
2 heads-up as to what may be coming down the road
3 in this case.

4 **MR. HINNEFELD:** Yes.

5 **DR. ZIEMER:** Liz, did you want to add to that?

6 **MS. HOMOKI-TITUS:** I just thought I may be able
7 to add something. We believe that even though
8 these will be individual petitions and petition
9 reports, that we'll be able to do a lot of the
10 administrative type work as a group. So
11 officially they'll be individual site reports,
12 but there won't be one *Federal Register* notice
13 per site. There'll be a group of -- one
14 *Federal Register* notice with a group of --
15 indicating --

16 **DR. ZIEMER:** For multiple sites.

17 **MS. HOMOKI-TITUS:** -- a group that's coming --
18 right -- to the Board. So --

19 **DR. ZIEMER:** And that's within the --

20 **MS. HOMOKI-TITUS:** -- administratively --

21 **DR. ZIEMER:** -- framework of the regs so --

22 **MS. HOMOKI-TITUS:** Right, administratively
23 we'll handle them as a group, but officially
24 they will be individual site reports.

25 **DR. ZIEMER:** Understood, yes. Yes, Leon.

1 **MR. OWENS:** Stu, are the claimants -- do we
2 know the demographics? I mean are they elderly
3 widows or --

4 **MR. HINNEFELD:** Well --

5 **MR. OWENS:** -- 'cause you know, there -- there
6 a lot of folks that don't fully understand the
7 process, and if they see a letter that
8 basically is a denial, with the length of time
9 that it's taken us to move forward, a lot of
10 them just give up.

11 **MR. HINNEFELD:** I -- I understand that, and the
12 test case -- you know, we -- we want to select
13 a test case for a particular site situation and
14 then have that petition bring along all the
15 petitioners -- or all the claimants who fit
16 that class, so they don't all have to fill out
17 a form and send in a petition.

18 We try to select a test case on a number of
19 criteria, one of which would be if we know that
20 the claimant is able to deal with this well --
21 and we call them -- we do what we call the
22 closeout interview actually before we send them
23 the letter. We do the closeout interview and -
24 - and try to explain to them, you know, what's
25 going on. And it should -- you know, I think

1 if we got bad signals that this one -- that
2 this person is really not understanding the
3 process that we're explaining to them, that we
4 would probably try a different test case --

5 **DR. ZIEMER:** But --

6 **MR. HINNEFELD:** -- in order to -- to -- for
7 that group.

8 **DR. ZIEMER:** But you are suggesting that you
9 will do everything you can to shepherd them
10 through the process then?

11 **MR. HINNEFELD:** Yes. Yes. Yes, we're trying
12 to bring them through the process to get this
13 petition in.

14 **DR. ZIEMER:** Dr. Melius?

15 **DR. MELIUS:** Just one comment going back to our
16 earlier discussions this morning and I believe
17 Gen's comments about sort of the overall
18 process. I would think that -- I would hope
19 that on the agenda for the next meeting, at the
20 same time that we may be considering these,
21 that we also have a full discussion of our
22 handling of SEC petitions because in some ways
23 this further complicates it. I don't think
24 it's necessarily bad, but we need to come to
25 grips with certain issues and so forth. I

1 think one thing in the back of our minds as
2 we've looked at some of these recent petitions
3 is well, do you -- is there some way that you
4 look at sub-classes or, you know, groups of
5 workers and -- and so forth. That's not the
6 way the information's been presented to us and
7 -- and in evaluating the information it's been
8 that -- we've seen on the recent petitions, I
9 don't think it was possible or feasible to
10 break it up further beyond sort of the broad
11 categories NIOSH tried, which was years of
12 work, basically. But I think this is -- I
13 think we're going to start getting into that
14 issue with these sort of individual, smaller
15 groups and so forth and -- and it really is --
16 can present a complicated picture 'cause at the
17 same time we may be considering petitions that
18 would also include these -- these groupings.
19 And I think as we get into this it's -- really
20 behooves us that we have a full discussion of -
21 - of where we need to go, how we process this -
22 - and hoping that NIOSH -- I think I heard Jim
23 Neton say that earlier, was really -- was
24 addressing the same thing. I think Jim had
25 told us that as part of this process they were

1 -- I mean we were going through -- maybe this
2 was in a workgroup meeting -- were sort of
3 developing a methodology for evaluating these.
4 But I think, together with NIOSH, we sort of
5 need to step back and really have some
6 discussions on how to handle this. And again,
7 particularly in the context of this -- these --
8 type of petition.

9 **DR. ZIEMER:** Right, and actually one of the
10 issues -- or one of the tasks, really, that
11 comes under our new task five has to do with
12 how petitions are handled, not only by our
13 contractor, but by us. And John Mauro has
14 already given some thought to how they can help
15 us develop our procedures so that they mesh
16 with theirs, as well, in dealing with these
17 kinds of questions. So obviously we -- we need
18 to begin to structure that process in a
19 comprehensive way as we gain experience and see
20 what's coming down the road here. It's a point
21 well taken.

22 Now any other questions? This requires no
23 action today. It's more of a -- again, a
24 heads-up of some possible directions that this
25 may take in the future. Stu, I don't believe

1 you have any action that you need us to take.

2 **MR. HINNEFELD:** No, no this is just a point of
3 information.

4 **DR. ZIEMER:** Any further questions for Stu or
5 for the others -- yes, Leon.

6 **MR. OWENS:** Stu, you're at liberty -- are you
7 at liberty to give us some possible sites where
8 this might be the case?

9 **MR. HINNEFELD:** Well, I thought about that and
10 we've discussed it. And I -- I think -- I'm --
11 it's -- it's -- we're better served not to
12 discuss the sites because if it doesn't go the
13 way we think it's going to go, we'll have
14 raised expectations by discussing it here and
15 then it not work out. So just for that reason,
16 I thought it would -- we thought it would be
17 better not to discuss the sites.

18 **DR. ZIEMER:** Okay, any further questions for
19 Stu? Yes, Robert.

20 **MR. PRESLEY:** How many cases do you think this
21 is -- this is going to involve? I can -- I can
22 see us possibly going through tremendous
23 amounts of small SEC petitions under this.

24 **MR. HINNEFELD:** Well, there -- there could be -
25 - you know, that could happen. I mean there

1 could be a lot. As I said, we have -- we're at
2 the front end of identifying the situation.
3 You know, we are starting to make the serious
4 decision that this one we just cannot do, we
5 cannot get the information. Up until now, if
6 we were trying -- as we were trying to keep the
7 production numbers up, a difficult case was
8 sort of put aside, and now we're dealing with
9 the difficult cases.

10 I think, though, that -- recall that the
11 research or the evaluation essentially is done
12 before we send -- before we ever contact the
13 test case claimant. You know, the evaluation
14 is pretty much done at that point. We've
15 determined it's not feasible to do
16 (unintelligible).

17 **DR. ZIEMER:** So basically you're looking for a
18 streamlined way to handle --

19 **MR. HINNEFELD:** This is --

20 **DR. ZIEMER:** -- all of these.

21 **MR. HINNEFELD:** Well, this is intended -- the
22 regulation intends this to be a streamlined
23 approach for adding classes to the SEC.

24 **DR. ZIEMER:** Okay. Further --

25 **DR. WADE:** We'll do everything we can to try

1 and streamline the paperwork.

2 **DR. ZIEMER:** Dr. Melius?

3 **DR. MELIUS:** Yeah. It would be -- be helpful
4 to know some of this ahead of time, obviously,
5 and as much information as NIOSH can get to us
6 before the meeting so we can have time to -- to
7 think about this.

8 But a related question I had was -- was what
9 about -- have we decided a location for our
10 next meeting and do we have other SEC petitions
11 to deal with at that meeting?

12 **DR. ZIEMER:** The next meeting -- at least at
13 the moment -- is scheduled for Oak Ridge.

14 **DR. WADE:** Correct.

15 **DR. ZIEMER:** The dates are October 17th, I
16 believe, 17th through 19th. Is that correct?

17 **MR. PRESLEY:** 17th, 18th and 19th.

18 **DR. ZIEMER:** 17th through 19th.

19 **DR. MELIUS:** And --

20 **DR. ZIEMER:** So --

21 **DR. MELIUS:** And why Oak Ridge? Not that I'm
22 objecting, but just trying...

23 **DR. WADE:** Because there will be an SEC review
24 for a Y-12 petition. As I look at the agenda
25 as we've been building it, we are likely to

1 have a Pacific Proving Grounds SEC and a Y-12
2 later years SEC on the agenda for the October
3 meeting.

4 **DR. ZIEMER:** Okay. Other questions? Yes, make
5 sure you have that one on your calendar. Also,
6 on down the road we have a January meeting
7 preliminarily scheduled.

8 Do we have the dates on that?

9 **DR. WADE:** I have 24 through 26 of January.

10 **MR. PRESLEY:** We got any suggestions where
11 we're going to hold that meeting?

12 **DR. WADE:** Well, did -- we've tentatively
13 penciled it in for Colorado, but you know,
14 things can happen, and that's because we're
15 looking at a Rocky Flats --

16 **DR. ZIEMER:** Rocky Flats SEC petition.

17 **DR. WADE:** Colorado is lovely in January.

18 **MR. PRESLEY:** That's what I was going to say,
19 that's a real good time to go out there and
20 some spend some real good nights in the
21 airport.

22 **DR. WADE:** That hasn't been locked in but that
23 is our plan.

24 **DR. ZIEMER:** Okay.

25 **DR. MELIUS:** Can I -- regarding sort of the

1 upcoming agenda, both the program that Stu's
2 been talking about, those type of petitions, as
3 well as the ones we would consider -- Oak Ridge
4 is pretty far from Pacific Proving Grounds, and
5 I would hope we would make arrangements for
6 people who are involved in that petition to
7 have access to the -- the meeting in some way.
8 I don't know what's practical, but I -- I
9 really think there's a great benefit to -- to
10 the credibility of the program about us
11 considering these -- these issues in front of
12 people that are -- are being impacted and make
13 it easier for them to get there. And I would
14 hope we would consider that in some way also
15 with these new type of petitions, also. I
16 think we could get some valuable information as
17 we're sort of developing the process for
18 dealing with these from having some, you know,
19 representatives of that petition group present
20 and -- and informing us about issues related to
21 that facility and -- and the workgroup
22 involved. So you know, whether it's going to
23 be practical to cover every site, I don't think
24 so. But I think to the extent that it is, that
25 be taken into consideration.

1 **DR. WADE:** We certainly understand and we have
2 slightly -- mathematically, we have slightly an
3 over-constrained situation that we'll work
4 through.

5 **DR. ZIEMER:** Thank you. Any additional
6 comments, Mr. Presley?

7 **DR. MELIUS:** Maybe you could fly us from Oak
8 Ridge out to --

9 **MR. PRESLEY:** I told you Henry and I are
10 holding out for the Bikini Atoll in January.

11 **DR. MELIUS:** Amchitka.

12 **MR. PRESLEY:** One of the -- one of the things I
13 need to ask the Board, if we do come to Oak
14 Ridge on Monday the 17th, do y'all want to eat
15 barbecue Sunday night the 16th?

16 **DR. ZIEMER:** This is the social part of the
17 Board's calendar, very important, but --

18 **MR. PRESLEY:** Yeah, this is the social part of
19 the Board's calendar and one thing I do need to
20 say. By law we're required to make this a
21 Dutch treat, so I just need to know if the
22 Board's -- what the wishes is if you want to
23 have a barbecue on Sunday night the 16th.

24 **DR. ZIEMER:** Careful, Robert, I'm half Dutch.

25 **DR. MELIUS:** Then you're paying.

1 **DR. ZIEMER:** I'm treating, right.

2 **MR. PRESLEY:** That means you pay.

3 **DR. ZIEMER:** Right. Right.

4 **MR. PRESLEY:** The consensus is then that we do
5 want a barbecue the 16th?

6 **DR. ZIEMER:** I've asked Robert if it's possible
7 and we have such a barbecue, and I think many
8 of you know that Mr. Presley is the barbecue
9 champion of Tennessee and maybe most of the
10 south, actually. He's right up there with Ray,
11 I think -- silver or gold medal. But in any
12 event, we would -- we would -- there's a
13 possibility we will be able to hold that in the
14 Atomic Museum in Oak Ridge, which would be of
15 great interest to see a lot of the historical
16 information that is there in that facility.
17 Mark, you have a comment?

18 **MR. GRIFFON:** I just -- it sounds like we're on
19 the calendar items, I don't --

20 **DR. ZIEMER:** Yes.

21 **MR. GRIFFON:** -- but I just wanted to see,
22 while we were all here, if we could set a
23 workgroup meeting date.

24 **DR. ZIEMER:** Yes.

25 **MR. GRIFFON:** We talked about -- for the

1 procedures review, and we -- we met on the
2 side, but we were looking at the first week of
3 October. I don't know if we nailed it down.

4 **MS. MUNN:** I think we did, Mark. I talked with
5 Mike and he's tied up much of that week, but is
6 available on the 6th.

7 **DR. ZIEMER:** I'm going to suggest, since it
8 just involves the four of you, that you -- the
9 four of you work that out and --

10 **MR. GRIFFON:** Well, the only reason I wanted to
11 do it in public --

12 **DR. ZIEMER:** So -- know when it is, okay.

13 **MR. GRIFFON:** -- or -- yeah --

14 **DR. ZIEMER:** Right, okay.

15 **MR. GRIFFON:** -- notice of it.

16 **MR. PRESLEY:** October the 6th?

17 **MS. MUNN:** Uh-huh.

18 **MR. PRESLEY:** Yes.

19 **MR. GRIFFON:** October the 6th then --

20 **DR. ZIEMER:** October the 6th is being
21 suggested, and if that's a serious problem for
22 the contractor, then we need to know that.

23 **MR. GRIFFON:** Or NIOSH.

24 **DR. ZIEMER:** Apparently not -- or NIOSH.

25 **MR. GRIFFON:** Right.

1 **DR. WADE:** I take that as affirmative, Mark,
2 October the 6th in Cincinnati, Ohio.

3 **DR. ZIEMER:** Mike, additional comment?

4 **MR. GIBSON:** It's getting back to -- not the
5 calendar issues, but business a little bit, and
6 a lot of the petitioners last night, there were
7 several of them talked about not understanding
8 the process and a seeming insensitivity to
9 concerns when they talk to different agencies.
10 And I just wanted to share with you -- I was --
11 I was given some information about a friend of
12 mine who was diagnosed with cancer from Mound,
13 and this was back when there was Part D, it was
14 not Part E at the time, but it was July 13th.
15 It was just to confirm the illness, but there
16 was a handwritten note from a -- a lady from
17 DOE that says -- and the gentleman, because of
18 his cancer, had dementia, so he couldn't
19 understand, so they were dealing with the
20 spouse. It says (reading) Mrs. X, I'm not
21 being morbid, comma, just practical, period.
22 Please submit this form after Mr. X's death --
23 and included a survivor's form.

24 I think that -- that is just outrageous that
25 someone -- I mean thank God DOE is pretty much

1 out of the picture right now, but -- and I
2 would just caution everyone who deals with
3 these claimants to be sensitive. That's --

4 **DR. ZIEMER:** Exactly. Good point, Mike, and we
5 probably can't stress that enough to -- and I
6 suppose we're preaching to the choir, but we --
7 we often hear these stories that people are
8 simply not treated very well, and treated in
9 such a bureaucratic way that it -- it's a
10 little disturbing. I appreciate your bringing
11 that up.

12 **MR. GIBSON:** I mean to -- to go out of your way
13 and hand-wrote -- hand-write a note like that
14 is...

15 **DR. ZIEMER:** Right, thank you. Jim, did you
16 have an additional comment?

17 **DR. MELIUS:** No, I'm sorry.

18 **DR. ZIEMER:** Okay. Do we have any other items
19 that need to come before the Board today?

20 (No responses)

21 Again, for those who might not have been here
22 earlier, just announce the main action of this
23 meeting this week at St. Louis was that the
24 Board has approved recommending to the
25 Secretary of Health and Human Services that the

1 petition for Special Exposure Cohort status for
2 the other group, this later group of
3 Mallinckrodt workers, be approved.

4 And with that, we will recess -- or adjourn our
5 meeting. Thank you all very much for coming.

6 We'll see you all in Oak Ridge.

7 (Whereupon, the meeting was adjourned at 11:45
8 a.m.)

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C E R T I F I C A T E O F C O U R T R E P O R T E R**STATE OF GEORGIA****COUNTY OF FULTON**

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of August 26, 2005; and it is a true and accurate transcript of the testimony captioned herein.

I further certify that I am neither kin nor counsel to any of the parties herein, nor have any interest in the cause named herein.

WITNESS my hand and official seal this the 7th day of October, 2005.

STEVEN RAY GREEN, CCR**CERTIFIED MERIT COURT REPORTER****CERTIFICATE NUMBER: A-2102**