

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

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ADVISORY BOARD ON RADIATION AND
WORKER HEALTH

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ROCKY FLATS WORK GROUP

+ + + + +

MONDAY,
JULY 20, 2009

+ + + + +

The work group meeting convened
via teleconference at 10:00 a.m., Mark
Griffon, Chairman, presiding.

PRESENT:

MARK GRIFFON, Chairman
MICHAEL H. GIBSON, Member
WANDA I. MUNN, Member
ROBERT W. PRESLEY, Member

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ALSO PRESENT:

TED KATZ, Designated Federal Official
NANCY ADAMS, NIOSH Contractor
TERRIE BARRIE, ANWAG
CAROLYN BOLLER, Office of Senator Mark Udall
SHANNON BRADFORD, NIOSH OCAS
LARRY ELLIOTT, NIOSH OCAS
JASON BROEHM, HHS
EMILY HOWELL, ESQ., HHS
BONNIE KLEA, Participant
ROY LLOYD, HHS
ARJUN MAKHIJANI, SC&A
JOHN MAURO, SC&A
ROBERT McGOLERICK, HHS
DAN McKEEL, Dow, Petitioner
JIM NETON, NIOSH OCAS
JUDY PADILLA, Participant
MUTTY SHARFI, ORAU
BRANT ULSH, NIOSH OCAS

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

2 (10:04 a.m.)

3 MR. KATZ: Okay. I think -- why
4 don't we just go ahead, do roll call, and I
5 guess Wanda will join us when she can.

6 Okay. This is the Rocky Flats
7 Working Group of the Advisory Board on
8 Radiation and Worker Health. My name is Ted
9 Katz, and I am the Acting Designated Federal
10 Official for the Advisory Board. And we are
11 meeting this morning to discuss the Rutenber
12 data and other data used in relation to Rocky
13 Flats, and particularly in relation to neutron
14 exposures.

15 So we will begin with roll call,
16 and beginning with the Board members. And,
17 please, for everybody in roll call, other than
18 the public, but all the government employees
19 please state your conflict of interest
20 situation when you say your name, starting
21 with Mark.

22 CHAIRMAN GRIFFON: Mark Griffon.

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1 I'm the Rocky Flats Work Group Chair.

2 MR. KATZ: No conflicts?

3 CHAIRMAN GRIFFON: No conflict.

4 MEMBER PRESLEY: This is Robert
5 Presley, no conflict.

6 MEMBER GIBSON: Mike Gibson, no
7 conflict.

8 MEMBER MUNN: Wanda Munn, no
9 conflict.

10 MR. KATZ: Was that Wanda?

11 MEMBER MUNN: Yes.

12 MR. KATZ: Welcome, Wanda.

13 MEMBER MUNN: Thank you.

14 MR. KATZ: Okay. That is the
15 Board members. And now for the NIOSH and the
16 ORAU team, please?

17 MR. ELLIOTT: Larry Elliott,
18 Director of OCAS, no conflict.

19 DR. NETON: Jim Neton, NIOSH, no
20 conflict.

21 MS. BRADFORD: Shannon Bradford,
22 NIOSH, no conflict.

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1 DR. ULSH: This is Brant Ulsh,
2 NIOSH OCAS, no conflict.

3 MR. SHARFI: Mutty Sharfi, ORAU
4 team, no conflict.

5 MR. KATZ: Okay. That does it for
6 NIOSH/ORAU team. How about SC&A?

7 DR. MAURO: John Mauro here, no
8 conflict.

9 DR. MAKHIJANI: John Mauro Arjun
10 -- John Mauro.

11 (Laughter.)

12 Arjun Makhijani. It's early here.

13 (Laughter.)

14 I woke up too early. No conflict.

15 MR. KATZ: Okay. That's it for
16 SC&A. Then, how about other federal
17 employees, NIOSH or otherwise? HHS, DOL, DOE?

18 MS. HOWELL: Emily Howell, HHS, no
19 conflict.

20 MR. BROEHM: Jason Broehm, CDC, no
21 conflict.

22 MR. LLOYD: Roy Lloyd, HHS, no

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1 conflict.

2 MR. MCGOLERICK: Robert
3 McGolerick, HHS, no conflict.

4 MR. KATZ: Okay. Then any
5 representatives of congressional offices,
6 staff of congressional offices?

7 MS. BOLLER: Carolyn Boller,
8 Senator Mark Udall.

9 MR. KATZ: Okay. And then members
10 of the public, if you would like to identify
11 yourselves, you are welcome to at this point,
12 if you want to be in the transcript.

13 MS. PADILLA: My name is Judy
14 Padilla. I am a former Rocky Flats nuclear
15 worker, and I have a conflict.

16 MR. KATZ: There are no conflicts
17 for the members of the public, actually. But,
18 Judy, can you just spell your last name,
19 please?

20 MS. PADILLA: P-A-D-I-L-L-A.

21 MR. KATZ: Thank you.

22 MS. ADAMS: Ted, Nancy Adams,

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1 NIOSH contractor. Also, I went looking on the
2 website for the Ruttenger report, and I -- it
3 is not easy to find. I have not been able to
4 find it, just in case somebody had a URL for
5 it.

6 MR. KATZ: Okay. Well, we can
7 maybe get to that in a second, but let's
8 continue with members of the public.

9 MS. BARRIE: This is Terrie Barrie
10 with ANWAG.

11 MR. KATZ: Welcome, Terrie.

12 MS. BARRIE: Good morning.

13 MS. KLEA: This is Bonnie Klea
14 from the Santa Susanna Field Laboratory in
15 California.

16 MR. KATZ: Welcome, Bonnie.

17 MS. KLEA: Thank you.

18 MR. KATZ: Okay. Any other
19 members of the public?

20 (No response.)

21 All right, then. Then, let me
22 just remind everyone that's on the phone,

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1 members of the public, et al., please mute
2 your phone except when you are part of the
3 discussion. And if you don't have a mute
4 button on your phone, you can use *6. That
5 will mute it. And then, if you need to come
6 back on to speak, you just press *6 again, and
7 that will unmute your phone. So please do
8 that, and please do not put the phone on hold
9 at any time. Just hang up and call back in if
10 you need to go away for a brief bit.

11 Much thanks, and, Mark, it is all
12 yours.

13 CHAIRMAN GRIFFON: Thanks, Ted.

14 Yes, this is Mark Griffon, and I
15 just wanted to start off the meeting with a
16 couple of statements, and then we will get
17 into the report that was submitted by NIOSH.

18 I think one thing I wanted to say
19 up front was that this is -- it is our Rocky
20 Flats Work Group. We are not looking at the
21 SEC evaluation anymore. We have made our
22 determination, we have sent our letters in on

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1 the -- establishing the SEC.

2 The narrow focus here -- and I
3 think this is important for our discussions
4 for the next little while -- was to evaluate
5 the Rutenber database for impact on the Rocky
6 Flats SEC eligibility, and that was -- that
7 was really what we were totally focused on
8 here, not expanding or having the discussions
9 again about the SEC. So I just wanted to
10 clarify that up front for all that are on the
11 line.

12 One little administrative thing I
13 wanted to say. I have -- I don't think the
14 website says this, but I have to be off the
15 call by noon, so -- but I think that gives us
16 plenty of time to get an overview on this and
17 have some discussion.

18 So my intent for this call was to
19 have NIOSH give an overview of the report, to
20 have, then, an opportunity for some questions.

21 I will say that Terrie Barrie emailed me a
22 question that she would like read into the

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1 record, so I will do that for Terrie, but then
2 other questions from other work group members
3 would be fine there, and then, if there's
4 questions from the public. And then, I think
5 we might want to talk about next steps at the
6 end of the call.

7 I assume Brant would be giving the
8 overview on the report -- if I can ask you to
9 sort of give a -- I guess what I am looking
10 for is like a reduced, condensed version of
11 the entire report, you know, just the
12 objective of your comparison, the methods you
13 used, and sort of the bottom line, what -- you
14 know, how does this impact the potential
15 eligibility for the class?

16 I don't think we need the whole
17 history and the timeline, if people want to
18 get into that, or if we want to -- you know,
19 going forward people may want to look at that
20 and have some questions on that. But I am not
21 sure -- just at least as a first step if you
22 can keep it narrowly focused on the objective,

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1 the methods you used to determine it, and then
2 what your conclusions were, that would be I
3 think helpful, especially in a short time
4 phone call.

5 Is that all right, Brant?

6 DR. ULSH: Sure, Mark. No
7 problem.

8 CHAIRMAN GRIFFON: All right.
9 With that, I will turn it over to you, unless
10 other people have questions on the agenda
11 before we --

12 MS. BOLLER: Was Margaret
13 Ruttenber going to be on this call?

14 CHAIRMAN GRIFFON: I don't know.
15 I didn't hear her acknowledge herself, so I'm
16 assuming she -- well, I'm not sure. I haven't
17 heard anything from her.

18 MR. ELLIOTT: This is Larry
19 Elliott. I sent her a copy of the report and
20 notified her of the conference call this
21 morning. But I don't know if she is intending
22 to participate or not.

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1 MS. BOLLER: Okay. All right.
2 Thanks, Larry.

3 CHAIRMAN GRIFFON: Okay. I guess
4 I will turn it over to you. Thanks.

5 DR. ULSH: Okay. Well, this is
6 Brant Ulsh. The reason -- as Mark mentioned,
7 the reason that we are meeting this morning is
8 to discuss to what extent the epidemiological
9 studies conducted by Jim and Margaret
10 Ruttenber, whether they are similar to the
11 neutron dose reconstruction project, which I
12 will refer to as the NDRP, or to what extent
13 they might be different, and how that might
14 impact eligibility for the Rocky Flats SEC
15 cohort.

16 One idea that was circulated and
17 there was a lot of concern about, is that
18 these studies, the Ruttenber studies and the
19 NDRP, rely on different records, and they are
20 totally distinct datasets. And that is a
21 misconception.

22 There was a lot of overlap. Both

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1 programs grew out of the former medical
2 monitoring program conducted at Rocky Flats.
3 And, in fact, Jim Ruttenber even served on the
4 Advisory Board of the NDRP. So, as you might
5 imagine, there is a lot of overlap.

6 But they both started -- both the
7 Ruttenber studies and the NDRP started from
8 the dosimetry records that were provided by
9 the radiation protection staff at Rocky Flats.

10 The difference here is that the Ruttenbers
11 only had access to total penetrating dose. So
12 if you think of a pie chart, and the pie
13 represents total penetrating dose, it is how
14 you slice that pie into gamma and neutron
15 components that is the question at issue.

16 And the Ruttenbers clearly
17 expressed their preference to use the NDRP
18 results. However, the NDRP was not finished
19 in time for them to use them in their epi
20 studies. And these are -- I mean, it is
21 stated clearly in the Ruttenber reports that
22 they would prefer to use the NDRP.

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1 But in the absence of that, they
2 had to devise some methods for splitting the
3 dose into gamma and neutron components. And
4 to do that, they rely -- they consulted with
5 the staff of the NDRP and devised some rules
6 of thumb to determine how to split up that
7 total penetrating dose. They did this based
8 on job types, and they did it based on what
9 buildings workers worked in.

10 Now, another thing to note here --
11 and it might be different from what you've
12 heard -- is that there is no disagreement
13 between the Ruttenger studies and the NDRP
14 regarding which buildings presented neutron
15 exposure potential.

16 So what the Ruttenger team, the
17 Colorado Department of Public Health and
18 Environment team, did was they assigned
19 neutron doses to all members of a job type, if
20 any member of that job type could have been
21 exposed to neutrons.

22 So, for instance, if there was a

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1 tool engineer who worked in Building 771 and
2 could have been exposed, well, then, all tool
3 engineers were assigned a neutron dose.

4 Now, the difference here is that
5 the NDRP relied on primary dosimetry records,
6 so they went back and they pulled the
7 worksheets that were performed -- that were
8 prepared when the films were read, and they
9 also reread the neutron films. So these are
10 primary dosimetry records, and they relied on
11 that -- the reread films -- to determine
12 neutron exposure potential for the individuals
13 that work at Rocky Flats.

14 So that difference in the way that
15 neutron doses were assigned led the Ruttenger
16 studies to assign about 4,000 -- neutron dose
17 to about 4,000 more people than the NDRP did.

18 So given that, what we did is we looked at
19 the impact.

20 We kind of asked the question:
21 what would happen if the Ruttenger database
22 were used to determine eligibility for the

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1 Rocky Flats SEC cohort in addition to the NDRP
2 that we already use? And we also already use
3 the dosimetry files prepared and provided to
4 us by the Department of Energy.

5 So to conduct that analysis, since
6 we have the dosimetry -- complete dosimetry
7 records for all NIOSH claimants, we identified
8 the current claimants that are not members of
9 the SEC class, but they -- they are not part
10 of the NDRP, but the Ruttenbers did assign a
11 positive neutron dose during an SEC year.

12 And we looked through those
13 records, and we found no evidence that would
14 suggest neutron exposure. And, furthermore,
15 we applied the criteria that are used to
16 determine SEC eligibility, so things like, do
17 you have an SEC cancer for instance, or did
18 you work more than 250 days, you know, all the
19 criteria that are applied to an SEC.

20 And what we found was that there
21 would only be one person out of the current
22 NIOSH claimants that would be added to the SEC

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1 if the Rutenber data were used in addition to
2 the NDRP. So the idea that there would be
3 thousands of people added to the SEC is simply
4 -- well, quite frankly, it is just not
5 accurate.

6 So those were kind of the main
7 points of our report, and I would be happy to
8 expand on any, Mark, if you have questions.

9 CHAIRMAN GRIFFON: Okay. I think
10 one of the first questions was -- and this
11 actually was expressed by Terrie Barrie -- did
12 Margaret Rutenber have a chance to comment on
13 this report?

14 MR. ELLIOTT: This is Larry
15 Elliott. I will answer that. No. She saw
16 the report perhaps this morning. We didn't
17 offer her an opportunity to comment and
18 review.

19 CHAIRMAN GRIFFON: Okay. That was
20 one question.

21 I would ask about these -- the
22 4,000 -- this number of 4,000, Brant. How

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1 many people are in the NDRP? How many
2 individuals are identified in the NDRP that
3 have an exposure to neutron?

4 DR. ULSH: You know, Mark, I don't
5 have that number at my fingertips. Mutty, do
6 you have an idea?

7 MR. SHARFI: I mean, I could look
8 it up real quick, but I don't have it off the
9 top of my head.

10 DR. ULSH: Okay. Mark, how about
11 if we answer your next question, and Mutty
12 will look while --

13 CHAIRMAN GRIFFON: From the 4,000
14 standpoint, this -- I think 4,163 was the
15 number in the report with some assigned
16 neutron dose. I guess, you know, I think one
17 follow-up question might be we are eventually
18 probably going to want to see some of the data
19 files that you used to put together the
20 report.

21 But these were -- and I agree in
22 the characterization -- I mean, the Ruttensbers

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1 did use job information and a building, you
2 know, whereas the NDRP was just with a
3 building -- I do remember that discussion,
4 even when we were out there in Colorado, I was
5 out there with you.

6 But I -- I thought it was a little
7 more complex than if one -- if one -- I forget
8 what you said, tool mechanic or whatever, was
9 in 771, and they just assigned it to all -- I
10 mean, I thought there was a little more -- a
11 little more complicated of a model than that.

12 Am I wrong about that, Brant?

13 DR. ULSH: I think so, Mark.
14 Well, I don't want to say that you are wrong,
15 but it is just a little more complicated than
16 that. In other words, they used ratios to
17 split up the total penetrating dose, and those
18 ratios were building-dependent, just as the
19 NDRP was. And those ratios were provided by
20 the staff working on the NDRP. They provided
21 those ratios to the Ruttenbers.

22 So it is true, Mark, that they

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1 looked in a little more detail about, you
2 know, if you were in, for instance, Building
3 771 they used one ratio, but if you were in a
4 different building they used a different
5 ratio. But in terms of actually who was
6 applied neutron dose, I believe that that's
7 the way they did it, that they simply applied
8 -- you know, they based it on job category.

9 CHAIRMAN GRIFFON: Just on job
10 category regardless of the potential for
11 neutron exposure. They just said, this job --
12 we found one case of this job that had a
13 potential, and, therefore, we are going to say
14 anybody with that job title had the potential?

15 DR. ULSH: I believe that is the
16 case.

17 CHAIRMAN GRIFFON: Okay, I wasn't
18 clear on that. And then, let me just follow-
19 up with one, and then I will open it up to
20 either SC&A or other work group members, if
21 they have other questions.

22 But the 100 people that you

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1 reviewed, can you explain a little bit more on
2 -- just a little more on -- so these were 100
3 -- of your existing claims, these were -- of
4 the -- if you had the whole list of claimants
5 that you have in your system, you identified
6 100 that were not in the Ruttenber -- or were
7 not in NDRP but were in the Ruttenber
8 database? Am I characterizing that correctly
9 or no?

10 DR. ULSH: Yes, pretty close. Of
11 those 4,000-plus people who the Ruttenbers
12 assigned neutron dose to, but the NDRP did
13 not, we identified which ones were claimants.

14 And the reason that we focused on claimants
15 is because we had access to their complete
16 dosimetry file.

17 So out of that 4,000 people, 100
18 of them are current claimants. So that is the
19 -- that is the population that we examined in
20 detail, because we had access to all of their
21 records.

22 CHAIRMAN GRIFFON: And did you

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1 examine all of the 100, or did you triage it
2 first? I am a little confused, because you
3 seemed to drop off the cases that were -- that
4 were non-listed cancers, which, you know, is
5 pretty irrelevant for establishing exposure.

6 DR. ULSH: Well, okay, the goal of
7 our analysis, Mark, was to determine what
8 impact on the SEC that adding the Rutenber as
9 a source data would have had. So you are
10 correct that we did do the triage first.

11 So, for instance, if a person had
12 prostate cancer, which is a non-SEC cancer, we
13 triaged that. Or if they didn't meet the
14 other criteria for the SEC, that was triaged.

15 Or, for instance, if they are already a
16 member of the SEC class -- and I think there
17 were about 50 of the 100 that were already in
18 the SEC -- so those were triaged out, because
19 the addition of the Rutenber data would not
20 have any impact on whether or not they are
21 included in the SEC.

22 CHAIRMAN GRIFFON: However, they

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1 already -- can you explain that, too, Brant,
2 how were those people in -- or in the SEC
3 without being in the NDRP? What was the other
4 criteria that tripped them into the SEC?

5 DR. ULSH: Well, we would have to
6 look at each case in detail. However, I
7 suspect -- now let's keep in mind how these
8 cohorts were constructed. First of all, if
9 you were a member of the NDRP, if you were
10 considered in the NDRP, you were considered
11 was or should have been monitored for
12 neutrons, and you would be eligible, assuming
13 you met all of the other criteria.

14 CHAIRMAN GRIFFON: All right.

15 DR. ULSH: But recall that it was
16 decided that work in Building 881 would
17 qualify for addition into the SEC. Now that
18 would not qualify you for entry into the NDRP.

19 So basically what we have done is
20 we have taken all of the people who were
21 actually working in a plutonium building or a
22 neutron building and they're in, and then, of

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1 the remainder of the people, essentially work
2 in the largest remaining building, building
3 881, has also been added.

4 So I think I would -- it is my
5 very strong suspicion that that is how many of
6 those 50 people were already included in the
7 SEC because they had worked in Building 881.

8 CHAIRMAN GRIFFON: But wouldn't it
9 have been more informative to look at the 100
10 out of the 4,163, to look at, them, totally,
11 because, I mean, I understand -- I understand
12 the claims process. But we are looking at
13 special exposure cohort here, and the
14 eligibility to be in the class, you know, that
15 is -- I mean, you know, we don't know going
16 forward who is going to get what type of
17 cancer.

18 So, you know, if we want to know
19 how -- you know, if this database serves us in
20 any way in determining eligibility for future
21 claims, I would be interested to know -- even
22 though these 50 were already included, you

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1 know, if you examined them and you found --
2 you know, it would be of interest to me anyway
3 to see why those names were in the Ruttenger
4 database and not in the -- you know, look at
5 the original neutron records and see what you
6 find.

7 DR. ULSH: Well, Mark, given the
8 level of interest in determining eligibility
9 for the SEC class, that being the primary
10 interest, we focused very closely to the
11 impact that this would have on SEC
12 eligibility. So, yes, sure we could go back
13 and look at all 100 people. But the report
14 wouldn't have been presented to you now. It
15 would have taken a few more months to -- I
16 mean, to look at that.

17 CHAIRMAN GRIFFON: I guess that is
18 what I am focused on, too, is eligibility, not
19 -- I think we are -- I mean, I might be not
20 making my point very well, but, you know, the
21 idea -- I mean, if we are just looking at this
22 as a sample rather than as -- strictly as

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1 specific claims files, let's say this is a
2 sampling of 100 people that we just have --
3 happen to have access to their raw records, so
4 we are going to use that to make judgments
5 about the -- you know, the entirety of the
6 database.

7 Then I would say you need to
8 examine the entire sample, not just those that
9 you have already, you know, either disposed of
10 in a separate manner through the SEC process
11 or you have excluded for -- because they
12 didn't have the correct type of cancer. Do
13 you understand what I mean?

14 DR. ULSH: I do understand what
15 you are saying. But, you know, I am going to
16 defer to Larry on that in terms of dedicating
17 resources. However, but I would say to you
18 that we focused on the important question, and
19 that is, for whom would this make a difference
20 in terms of being in the SEC or not? And that
21 was only one person.

22 DR. NETON: Mark, this is Jim.

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1 I've got a sense that maybe we are going off
2 the track here, though. It is not would more
3 people be in the SEC if we used the Rutenber
4 data, but which dataset really appeared to be
5 a more representative set of people who are
6 neutron exposed. I mean, I don't -- you know,
7 I understand that --

8 CHAIRMAN GRIFFON: Well, we've --
9 I mean, you may disagree with this, Jim, but I
10 think the Board has already determined that,
11 you know, we have got concerns about the NDRP
12 data and the use for -- you know, that's why
13 the recommendation went out to the Secretary.

14 DR. NETON: But not necessarily
15 NDRP data reconstruction itself, but
16 identification of those who were neutron
17 exposed, the way the process was --

18 CHAIRMAN GRIFFON: Right. Right,
19 right. Okay.

20 DR. NETON: -- performed.

21 CHAIRMAN GRIFFON: All right.

22 Well, I --

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1 DR. NETON: I think that is a
2 different issue, and, you know, Brant outlined
3 in the report, I think in some detail, why the
4 NDRP, which went back and pulled 90,000
5 people's records and reanalyzed them in
6 detail, and the Ruttenber study actually
7 states that that would be a more
8 representative set. And why go back, then,
9 and reconstruct history based on a more what I
10 would consider obsolete dataset is sort of
11 questionable, but --

12 CHAIRMAN GRIFFON: Well, yes, and
13 I don't want to reconstruct the dataset. I'm
14 more interested, like you, Jim, in answering
15 that question of --

16 DR. NETON: But, I mean, the
17 central question is --

18 CHAIRMAN GRIFFON: Which one is
19 more complete in identifying people, you know,
20 who could have been exposed to neutrons? And
21 I will go back to my one example that I have
22 used throughout this debate is, you know, the

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1 maintenance person in the non-neutron building
2 who got sent into other buildings to do work,
3 you know, that hypothetical example or maybe
4 it is a more real example. But for this
5 purpose, for me it is a hypothetical example.

6 You know, this is where, you know, the use of
7 job title might have been important if it was
8 done -- you know, and, again, that's why we
9 set out this task.

10 DR. ULSH: Okay. There's a couple
11 points to make on that issue, Mark. We are
12 talking about roving workers here, and this
13 has been asked --

14 CHAIRMAN GRIFFON: Yes.

15 DR. ULSH: -- several times
16 before. So just for people who are on the
17 call who may not be as familiar with what we
18 are talking about here, rovers are people that
19 were stationed, officially stationed at least,
20 in a non-neutron building, but occasionally
21 their work took them into neutron buildings.

22 And so the concern here is, were

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1 those people captured in the NDRP? So if I
2 could, here is what the NDRP says about it.
3 "A small portion of the total number of
4 neutron worksheets represent the issuance of
5 neutron dosimeters to a few personnel whose
6 home building assignments were the non-
7 plutonium production building, such as
8 Buildings 21, 22, 23, 34, 44, 81, and 86.

9 "These individuals primarily
10 worked in non-neutron buildings but were
11 routinely issued neutron dosimeters because
12 they occasionally performed work activities in
13 plutonium production buildings. Some examples
14 of these job descriptions are guards,
15 radiation monitors, technical researchers, and
16 uranium process operators."

17 So what I can present to you,
18 again, is that the NDRP captured these people.

19 Now can I prove the negative, that there is
20 not somebody onsite who fits into this
21 category that the NDRP did not capture? Well,
22 it is not possible to prove a negative, but we

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1 have evidence that they made an effort to
2 capture these people, and we have seen no
3 evidence that people are missing, people that
4 fit this category were not captured. So that
5 is all I can do now, and that is really all I
6 am ever going to be able to do.

7 CHAIRMAN GRIFFON: The only
8 evidence we have is the 4,163 additional
9 people in the Rutenber database. And if you
10 are calculating it accurately, that number is
11 vastly too high. I mean, if it was simply
12 done on job title, I mean, in talking with
13 Margaret, I got the sense that it was a little
14 -- it scrutinized a little further than just
15 simply job -- it wasn't just any maintenance
16 mechanic, but they tried to determine if it
17 was maintenance mechanics that would have gone
18 into other buildings or things like that, but
19 maybe I am wrong on that. But, you know --

20 DR. ULSH: Well, I can tell you
21 that they did use rules of thumb. That was
22 confirmed to me both in some of the meeting

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1 minutes that Margaret provided. It was also
2 confirmed to me by Roger Falk, who gave them
3 the rules of thumb. And that is what they
4 used.

5 Now, with regard to -- I think Jim
6 is right here that we are kind of focusing on
7 an important question, but maybe not the main
8 question, and that is, which would be the most
9 reliable for determining who would then be --
10 who was neutron exposed.

11 So if you consider the fact that
12 the Ruttenbers -- and keep in mind I am not
13 criticizing what the Ruttenbers did. I think
14 they did an admirable job with the data that
15 they had at the time. It's just that they
16 didn't have access to all of the data that the
17 NDRP did.

18 And it mystifies me why anyone
19 would try to make the case that the NDRP is
20 not acceptable when they reread the films and
21 went back to primary dosimetry results. And
22 the Ruttenber data didn't have access to that,

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1 and they had to simply apply rules of thumb.

2 So I can't see that -- I can only

3 --

4 CHAIRMAN GRIFFON: Yes, I -- I
5 think Arjun has a follow-up question.

6 DR. MAKHIJANI: Yes. Is everybody
7 in the NDRP have a badge and their badges were
8 reread, it was my impression, at least in the
9 early years, most of the people who had
10 potential for neutron exposure were not
11 badged. And so like the Rutenber database,
12 their total dose was split by N/P ratio. It
13 didn't seem to me like the -- you know, there
14 were 700 buildings where people did not have
15 badges because people didn't realize it was a
16 high neutron area.

17 DR. ULSH: No, that's not quite
18 accurate. Parts of that are accurate, but
19 parts are not. It is true that in the early
20 --

21 DR. MAKHIJANI: -- have a neutron
22 badge in neutron buildings that we recognize

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1 now?

2 DR. ULSH: Okay. It is true that
3 in the early years they limited badging to
4 those that were considered the most highly
5 exposed.

6 DR. MAKHIJANI: That's right.

7 DR. ULSH: Now --

8 DR. MAKHIJANI: But my actual
9 question -- you made a statement that the NDRP
10 -- it consists of people whose badges were
11 reread. And what I am -- what my
12 understanding is, that the NDRP also includes
13 people who did not have badges and whose doses
14 are estimated only by N/P ratio, at least in
15 certain years.

16 DR. ULSH: That is --

17 DR. MAKHIJANI: Is that correct?

18 DR. ULSH: No, it is not just like
19 the Ruttenger database. They had --

20 DR. MAKHIJANI: No, the N/P --

21 DR. ULSH: -- they had a -- well,
22 let me answer your question. Let me answer

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1 your question. The answer is -- how did you
2 get into the NDRP? And the answer is if you
3 were issued neutron dosimetry or even if you
4 did not have neutron dosimetry, if you had
5 beta-gamma monitoring in a neutron building.

6 So, yes, it is true that there are
7 numerous people -- I don't know how many, I
8 would have to look -- who did not have neutron
9 badges, but they are in the NDRP anyway. And
10 by that, they are already in the SEC class.

11 DR. MAKHIJANI: Well, you had to
12 do the same thing in the NDRP for people who
13 did not have neutron doses, but beta-gamma
14 dosimetry. They had the full pie, but you
15 couldn't break it up. And so they had to use
16 N/P ratios for those people, which is --

17 DR. ULSH: That is correct.

18 DR. MAKHIJANI: -- which is the
19 method -- so I think the initial part of the
20 record indicated that NDRP consists of people
21 with reread badges, and the neutron doses in
22 the Rutenber database are N/P ratios is

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1 inaccurate. The NDRP actually consists of --

2 MR. SHARFI: Let me clarify. This
3 is Mutty Sharfi. Actually, Ruttenger split
4 the penetrating dose, where the NDRP actually
5 took the gamma dose and calculated neutron
6 dose. Those are two different things.

7 DR. MAKHIJANI: Well, I need to
8 know how this splitting was done. I am just
9 -- I just want to make a point --

10 MR. SHARFI: The NDRP did no
11 splitting --

12 DR. NETON: Time out. This is
13 Jim. I think, Arjun, that the issue here is
14 not the reliability of the dose calculation
15 for neutron. The issue is --

16 DR. MAKHIJANI: Well, a lot of
17 that has been inferred in the report.

18 DR. NETON: No, no, no.

19 DR. MAKHIJANI: And your report is
20 about which methods were more accurate for
21 dose reconstruction, whether it was N/P ratios
22 or rereading the badges and --

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1 DR. NETON: I think that is a
2 misconception of the report. The report
3 was --

4 DR. MAKHIJANI: Well, then why go
5 into whether the Rутtenber study used --

6 CHAIRMAN GRIFFON: All right. Let
7 Jim Neton speak, please.

8 DR. NETON: Yes. I would just
9 like to say that the report is really more
10 about who was potentially neutron exposed, not
11 how accurate the neutron dose reconstruction
12 is, because anybody with neutron exposures is
13 in the -- is in the class already. The
14 question is did the NDRP identify properly all
15 workers who were potentially exposed to
16 neutrons?

17 And as Brant indicated, in those
18 years when neutrons weren't monitored, they
19 assigned a neutron dose to workers who had
20 beta-gamma badges in neutron buildings. So
21 they were identified as potentially neutron
22 workers based on having worn a beta-gamma

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1 badge in a neutron building.

2 (Simultaneous speakers.)

3 DR. MAKHIJANI: Are there people
4 in the SEC class now who are not in the NDRP?

5 DR. ULSH: Yes. Yes, there are.
6 There are a number of them.

7 DR. MAKHIJANI: Then it is true
8 that the NDRP is incomplete in that regard.

9 DR. ULSH: That is absolutely not
10 true. The reason those additional people are
11 in the SEC class was because they worked in
12 Building 881.

13 DR. MAKHIJANI: Well, that is has
14 got to be NDRP.

15 CHAIRMAN GRIFFON: That was a
16 Board decision, Arjun.

17 DR. MAKHIJANI: No. It was a DOL
18 determination.

19 CHAIRMAN GRIFFON: Yes, yes.

20 DR. ULSH: There are a number of
21 people who are in the SEC class by virtue of
22 the fact that they worked in Building 881.

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1 However, we looked at those people, and there
2 is no independent indication in their file
3 that they were exposed to neutrons.

4 DR. MAKHIJANI: So you are saying
5 they are wrongly in the SEC class?

6 DR. ULSH: They are consistent
7 with the criteria that have been established
8 by DOL for entry into the class, and that is
9 Building 881. That is a settled issue.

10 DR. MAKHIJANI: No, it's a
11 technical question relating to who is eligible
12 to be in the SEC class and what the
13 uncertainties are, which is what I am trying
14 to understand, because in this conversation
15 the NDRP is being represented as complete for
16 those who were exposed to neutrons. But it is
17 a fact that there are a significant number of
18 people, including 50 out of the 100 that you
19 looked at were not in the NDRP, who are in the
20 SEC class even though they are not in the
21 NDRP.

22 DR. ULSH: That is correct.

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1 DR. MAKHIJANI: The NDRP cannot be
2 defined currently, as the SEC stands, as
3 representing completely those who are eligible
4 to be in the class, in my opinion.

5 DR. ULSH: I never represented it
6 as such. I clearly explained that DOL decided
7 to add work in Building 881 as entry -- as a
8 criterion for entry into the class. Those
9 people are not necessarily into -- they are
10 not in the NDRP unless they worked in a
11 neutron building, as defined by both NDRP and
12 the Ruttenber study.

13 DR. MAKHIJANI: So DOL did wrong
14 by adding them? That's what I'm trying to
15 understand.

16 DR. ULSH: I'm not going to answer
17 that question because it is not in my
18 authority to answer that question. DOL has
19 the responsibility and the authority to
20 determine how they will administer the class.
21 They decided that work in Building 881
22 qualified, and so those people are in.

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1 DR. MAURO: Brant, this is John
2 Mauro. I have a question, and it's really for
3 my -- I'm listening to the conversation. Am I
4 correct in understanding that right now the
5 real issue that is before us is that there are
6 4,000 or so people who are not currently
7 within the circle that is under consideration
8 for SEC treatment, within that group, is that
9 correct?

10 DR. ULSH: Not quite. There are
11 4,000 or so people who are assigned neutron
12 dose in the Rutenber database, but who are
13 not assigned neutron dose in the NDRP.

14 DR. MAURO: Okay. Now --

15 DR. ULSH: Now, a number of those
16 people would most likely qualify just like the
17 representative sample that we looked at.

18 DR. MAURO: I don't want to go
19 there yet. I understand that, but I am taking
20 baby steps right now. Okay. So what we have
21 is 4,000 people, whether or not -- now, what
22 I'm asking is, do you agree that those 4,000

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1 people are people that have the potential for
2 neutron exposures but are currently not under
3 consideration to be included within the
4 cohort?

5 DR. ULSH: No, I don't.

6 DR. MAURO: Okay. Because that's
7 what I hear is the essence of this
8 conversation.

9 DR. ULSH: Sure. There are 4,000
10 people that the Ruttenbers assigned neutron
11 dose to. We have not done a detailed analysis
12 of all 4,000. That would take several years.

13 But I would have to look at their dosimetry
14 files and see whether there was evidence of
15 neutron exposure or if there was evidence of
16 work in Building 881, which is also a
17 criteria.

18 DR. MAURO: Good. So we've got
19 4,000 people that are sort of in limbo right
20 now. What I mean by that is that we have a
21 group of 90,000 -- I heard a number like that
22 -- which is currently under consideration, you

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1 know, for possible assignment of compensation
2 claims under the SEC. And there are these
3 4,000 people that do not appear to be within
4 that circle, whether or not one or any of them
5 would actually be compensated, but is there
6 agreement that they did have the potential for
7 neutron exposures but are currently not part
8 of consideration within the cohort?

9 DR. ULSH: No. There is not
10 agreement on that point.

11 DR. MAURO: Okay.

12 DR. ULSH: I would say to you that
13 they would -- they simply were imputed neutron
14 doses by the Ruttensbers based on the criteria
15 that they used. We would have -- since they
16 did that based on job classes without really
17 evidence of work in a neutron building, I
18 would say to you that for each of those 4,000,
19 should they ever file claims, we would have to
20 bounce that against the SEC criteria and
21 determine whether they are in or not.

22 I can't tell you that every one of

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1 those 4,000 had neutron exposure potential. I
2 would do the same thing I did with these 100
3 cases that we looked at in detail.

4 DR. MAURO: So that is the essence
5 of the disagreement, namely 4,000 people have
6 been named, but there is no -- the level of --
7 the threshold of evidence that, yes, these
8 people should be within the cohort
9 automatically is not there. That would have
10 to be dealt with on a case-by-case basis.

11 DR. ULSH: I would say so, yes.

12 DR. NETON: John, this is Jim. I
13 would also like to point out something which I
14 think is fairly important. The definition of
15 the class, I believe, is those who were
16 monitored or should have been monitored for
17 exposures to neutrons. By definition, these
18 4,000 people or whatever there were, were not
19 monitored for neutron exposures. And their
20 doses were assumed and imputed by the
21 Rutenber study based on some job title
22 information.

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1 I think Brant could back this up.

2 I think it is true, though, that the vast
3 majority of those workers would have received
4 far less than 100 millirem imputed neutron
5 dose, which was the criteria -- the threshold
6 criteria established by the Department of
7 Labor for most classes, or all classes where
8 the definition of "should have been monitored"
9 came into play.

10 CHAIRMAN GRIFFON: I was hoping we
11 wouldn't get to the 100 millirem --

12 (Simultaneous speakers.)

13 DR. NETON: I'm just saying that
14 these people were not monitored at all for
15 neutron exposure. Should they have been
16 monitored is the question. And I think
17 Brant's report clearly outlines that, based on
18 the NDRP study, they should not have been
19 monitored.

20 CHAIRMAN GRIFFON: Yes. If you're
21 referring to -- this gets tangled around a
22 little bit, but if you are -- if you're

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1 referring to DOL, Jim, then 881, they should
2 have been monitored for neutrons. So --

3 DR. NETON: We did not make that
4 determination. Department of Labor did. And,
5 frankly, this is -- this report provides, as
6 best we can -- portrays the evidence of what
7 was available for NDRP versus the Rутtenber.
8 And, frankly, you know, the report stands on
9 its own merit, and people can use it to make
10 determinations as they see fit. But we do not
11 make that determination of who was in the
12 class.

13 CHAIRMAN GRIFFON: Well, I think
14 -- well, I don't want to drag on too long with
15 this because I think -- Jim, it would be nice
16 if we could see the -- like I'm sure you use
17 spreadsheets to put these names and numbers
18 together and stuff, because I'm still a little
19 unclear, especially on the 100, how many case
20 files you actually went into and -- I don't
21 want to, you know, try to get into it over the
22 phone without looking -- you know, it might

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1 just be easier to look at, but that might be
2 one follow-up item that I would ask for anyway
3 is the analysis files.

4 Go ahead. Who was trying to
5 speak?

6 DR. MAKHIJANI: Mark, it seems to
7 me from the report -- and Brant might confirm
8 if this is right or wrong -- he said that they
9 looked at 100 cases in detail. But as I read
10 the report, only two of them were examined for
11 neutron exposure.

12 CHAIRMAN GRIFFON: No, that's not
13 accurate.

14 DR. MAKHIJANI: From this triage,
15 the 50 were not examined because they were in
16 the SEC, 22 because they had non-SEC cancers.

17 Some were less than 250 days. Four at PoC
18 greater than 50 were compensated already, and
19 so on.

20 CHAIRMAN GRIFFON: Let Brant
21 respond to that.

22 DR. MAKHIJANI: I don't know how

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1 many -- how many neutron exposure potential
2 investigations were done out of these 100
3 cases.

4 DR. ULSH: I don't know. I would
5 have to go back and look at our spreadsheets
6 to see that. But it is true that --

7 CHAIRMAN GRIFFON: Well, that is
8 what we would like to look at, too, Brant, if
9 we could.

10 DR. ULSH: Sure. That's no
11 problem.

12 DR. MAURO: Before we move on --
13 this is John Mauro --

14 CHAIRMAN GRIFFON: Go ahead.
15 Brant was trying to finish. I'm sorry.

16 DR. MAURO: I'm sorry.

17 COURT REPORTER: Excuse me.
18 Hello. This is the Court Reporter. Could
19 people please remember to identify themselves
20 before they speak? I had trouble keeping
21 track of the last bit of conversation.

22 MR. KATZ: And as long as he is

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1 piping in on that point, I would just ask
2 everybody to please -- I know everybody has
3 something to say, but please try to let each
4 person finish what they are saying before you
5 -- before you come with your comment.

6 Thanks.

7 CHAIRMAN GRIFFON: Yes. And this
8 is Mark Griffon, and I just cut Brant off.
9 Sorry, Brant, I will let you finish your --

10 DR. ULSH: No, that's no problem,
11 Mark. I consider part of the detailed
12 analysis, we started at 100, and those are the
13 people for whom at least in theory the
14 Rutenber data could make a difference. And
15 we tried to determine, based on applying all
16 of the criteria, which people it might have
17 made a difference for. So that is where I
18 consider the line for a more detailed
19 analysis.

20 Now, it is true that we did do the
21 triage, as I described before. If it couldn't
22 possibly make a difference, we simply focused

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1 on the people where it could make a
2 difference. So, yes, I mean, I can -- it is
3 easy enough to provide you the spreadsheets
4 that back this up, and you all have access to
5 NOCTS. And if you'd like to do whatever looks
6 you want to, then that's fine, but --

7 CHAIRMAN GRIFFON: Yes, that would
8 be helpful, Brant.

9 DR. MAKHIJANI: I'm trying to
10 understand the meaning of the term "could make
11 a difference." For me, there are two
12 completely different meanings.

13 DR. ULSH: Okay.

14 DR. MAKHIJANI: One is they
15 already had a cancer and could be eligible for
16 compensation if they were in the SEC class.
17 The other is, did they have potential for
18 neutron exposure, whether they have a cancer
19 or not, whether they are a claimant or not,
20 which is, in my understanding, the definition
21 of who is eligible to be in the class.

22 And so from that point of view,

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1 all of these 100 claims potentially could --
2 100 people could be in the SEC class. And I
3 agree with what Mark said earlier, in that if
4 you look at these 100 claims as a sample of
5 the 4,163, perhaps not random, but, as I said,
6 at least as a sample, then you could get an
7 idea of how many of these 4,163 have potential
8 for neutron exposure.

9 Obviously, 50 of them are already
10 in the SEC class, so by that definition I
11 would say on the face of the analysis that is
12 already done, 50 of these 100 people who are
13 not in the NDRP are eligible to be in the SEC
14 class because they are already in it.

15 DR. ULSH: Okay. That was Arjun
16 Makhijani, by the way. This is Brant Ulsh.
17 Arjun, you asked a specific question about
18 what I mean when I say "for whom it could make
19 a difference," and let me give you a
20 definition.

21 If someone is already in the SEC
22 class -- in other words, out of that group of

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1 100, 50 of them are already in the SEC class,
2 if we add the Ruttenger data as another
3 criterion, it is not going to make one whit of
4 difference for them because they are already
5 in. You can't get in twice. They could have
6 one rem, 10 rem, 1,000 rem of neutron
7 exposure, and it will not make a single bit of
8 difference for them because they are already
9 in the SEC class.

10 DR. MAKHIJANI: No, no. I --

11 DR. ULSH: Similarly, if -- no,
12 let me finish, please. Similarly, if they
13 have already been exposed, if they have
14 already been compensated due to dose
15 reconstruction, it will not make a single bit
16 of difference. So -- and it is true that DOL
17 expanded the criteria for entry into the SEC
18 class to add work in Building 881.

19 Now there is no reason for us to
20 think -- there is no evidence to suggest that
21 the patterns that we observed in the 100 that
22 we looked at in detail, that that would be any

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1 different if we looked at all 4,100. So that
2 is why -- that is what I mean when I say "for
3 whom it would make a difference." It is,
4 "will it make a difference in the compensation
5 decision for those people?"

6 DR. MAKHIJANI: Yes, that is what
7 I am struggling with for the question of
8 eligibility for the SEC class. If you ignore
9 the fact that they are claimants, and the
10 outcome of their cases, and just look at this
11 as a sample of the 4,163 as a technical and
12 statistical question, then you would find that
13 50 of the people who are not in the NDRP but
14 are in the Rutenber database are part of the
15 SEC class already, as it has been determined.

16 So my -- and then, one may be by
17 your additional investigation. So at this
18 stage, I think, based on the investigations,
19 one would say that if one took a sample of the
20 4,163, one would find, by current criteria,
21 that 51 percent of them would be in the SEC
22 class. Is that wrong?

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1 DR. ULSH: Yes, because of the
2 expanded criteria that DOL uses for entry into
3 the class.

4 DR. MAKHIJANI: Okay. So then --

5 DR. ULSH: Fifty of the 100 are
6 already in the SEC.

7 DR. MAKHIJANI: Yes. So, but they
8 are not in the NDRP.

9 DR. ULSH: That is correct.

10 DR. MAKHIJANI: So out of the
11 4,163, we might find more than 2,000 people
12 who are eligible for the SEC, as the analysis
13 stands now. That is my understanding of it.

14 DR. ULSH: Well, okay, if we make
15 the assumption that the 100 is represented --
16 a representative sample, then by definition if
17 you scale up, half of them -- even if we did
18 not -- even if DOL decides not to use the
19 Ruttenber data as the criteria, about half of
20 those people, should they file a claim, will
21 be in the SEC class anyway.

22 DR. MAKHIJANI: But they may not

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1 be. I mean, this is -- this is something we
2 are inferring, where the question is, is how
3 complete is the NDRP for people to determine
4 their neutron dose potential? That is the
5 focus of a lot of your report. By the
6 criteria -- by the findings in the report, it
7 would appear that many of the 4,163 people who
8 are not in the NDRP did have neutron exposure
9 potential by the current SEC criteria. That
10 is the thing I am trying to --

11 DR. NETON: I think that is a
12 false assumption, Arjun. This is Jim Neton.

13 You know, if you go strictly by
14 the technical merit of both reports, you can't
15 come to that conclusion. You have to reach
16 out and add in the class that the Department
17 of Labor has expanded to mean, you know, that
18 are in the SEC. That is not a valid
19 comparison when you are comparing two
20 databases.

21 DR. MAKHIJANI: Well, I guess the
22 undercurrent of the NIOSH position is that the

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1 people who are on the SEC class who are not on
2 the NDRP are wrongly in the SEC class. That
3 is --

4 DR. NETON: We are evaluating two
5 databases, and the technical merit valuation
6 of those two databases stands on its own
7 merit. You can't start adding in Building 881
8 people and say that the NDRP is wrong.

9 DR. ULSH: Because you also have
10 to consider that the Ruttenger database, the
11 Ruttenger studies, also did not consider
12 Building 881 a neutron building. Regardless
13 of that, the class, as DOL has defined it,
14 does include Building 881.

15 Quite frankly, my opinion of
16 whether that is a good or bad decision is
17 completely irrelevant. DOL has determined
18 that that is a criteria for entry into the
19 class, and so it is.

20 DR. MAURO: Brant, this is John
21 Mauro. I have a question about --

22 DR. MAKHIJANI: Well, these 50

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1 were in 881, then.

2 DR. ULSH: I'm sorry, I didn't
3 catch that. What?

4 DR. MAKHIJANI: Ruttenber didn't
5 have 881 in his criteria, their criteria. So
6 these 50 cases, then, are in the SEC class
7 from the Ruttenber database, but they would
8 then probably not be in Building 881.

9 DR. ULSH: No, that's not true.
10 Ruttenber used a different way of assigning
11 neutron doses. They assigned them based on
12 job class. Now, when they listed neutron
13 buildings, they listed the exact same list
14 that the NDRP did.

15 DR. MAKHIJANI: Right.

16 DR. MAURO: Brant, what would be
17 the problem --

18 DR. MAKHIJANI: I see the point.

19 DR. MAURO: -- with adding the
20 Ruttenber data as part of the definition of
21 the class? In other words, right now I am
22 hearing that the definition of a class is done

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1 in a way which identifies buildings. And by
2 doing so, there is a high level of assurance
3 that you have captured everyone that had the
4 potential for neutron exposures over the time
5 period of interest, and perhaps more.

6 And what I am hearing, though,
7 well, there is -- you can actually expand the
8 definition a little bit, and maybe catch a few
9 more people, if you were to include all of the
10 people that are in the Ruttenber database,
11 which is another way of trying to identify
12 people with neutron exposures. It is sort of
13 like a Venn diagram, I think is what it's
14 called.

15 But I'm hearing some resistance to
16 that, and I -- the reason I'm hearing it is
17 that you don't believe that the -- the way in
18 which the Ruttenber data defined people with a
19 potential for neutron exposure was robust
20 enough to make it into the definition of the
21 class.

22 DR. ULSH: You are on the right

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1 track there, John, in terms of characterizing
2 my thinking, although I am approaching this
3 from a different goal. I am not trying to
4 exclude anyone from the class, and I am not
5 trying to maximize the number of people.

6 All I am saying is -- and this is
7 a purely scientific question -- what is the
8 most scientifically robust way of the two --
9 the Rutenber or NDRP -- to decide who was
10 assigned -- who was exposed to neutrons? And
11 my point is that if I am given the choice
12 between two studies, one of which relies on
13 primary dosimetry data, goes back and rereads
14 the film, the actual films themselves, the
15 other study relies on -- it's an epi study, so
16 it's designed to do epidemiological purposes,
17 and, quite frankly, a lot of epi studies do
18 not give the level of attention to the
19 dosimetry. They focus on other aspects that
20 are more important for an epi study.

21 Furthermore, the report of the
22 Rutenber study itself clearly indicates that

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1 the NDRP methodology is superior. It simply
2 was not available to them at the time. Given
3 the choice between the two, my conclusion is
4 that the NDRP provides a more scientifically
5 robust and reliable method for determining who
6 was actually neutron exposed.

7 Now if DOL decides to add the
8 Ruttenber database as a criteria for entry
9 into the class, fine, that is their decision.

10 I have no problem.

11 DR. MAURO: Isn't that the essence
12 of what we are talking about right now,
13 whether or not that decision is appropriate or
14 not?

15 DR. ULSH: I can't speak to the
16 appropriateness of it. All I can tell you
17 is --

18 DR. MAURO: Isn't that where this
19 is all taking us? I mean, in the end, we are
20 really saying, well, should we expand the
21 definition to include the Ruttenber data?
22 Because maybe that is a different way of

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1 evaluating who should be in the class.

2 But if -- I guess from a
3 scientific point of view, if it was reasonable
4 that, yes, that is another way to figure out
5 who might have gotten some neutron exposure,
6 well, then one would say, yes, maybe you
7 should be including that group in the class.

8 If it turns out that the way in
9 which it was done was such that it isn't as
10 robust as the method that you folks have used,
11 and, therefore, should not be one of the
12 criteria or ways in which we include people
13 within the SEC, so, I mean, it comes down to a
14 very -- that simple question.

15 See, you posed it as an "or." You
16 know, am I going to use Ruttenger, or am I
17 going to use NDRP? And I'm saying -- I say,
18 well, how come we are not using both? And
19 there has got to be an answer to -- if you
20 decide that both are not going to be used, you
21 are going to have to pick one, I would
22 understand why you would say, yes, maybe there

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1 is good reason -- if you are going to have to
2 pick one, we are going to go with the one you
3 picked.

4 But I don't think that's -- I
5 think the question is broader than that.
6 Perhaps you don't have to pick one; you could
7 pick both.

8 DR. ULSH: Sure. DOL could very
9 well say, we are going to use the NDRP, and in
10 addition we are going to use the Rutenber
11 data. If they decide that, I mean, that is
12 entirely within their prerogative to do so.

13 DR. MAURO: I'm sorry to jump in
14 like this, but they are going to look to you
15 and ask the question, well, you know, was the
16 Rutenber approach for identifying people with
17 the potential for neutron exposure also a
18 fairly good way to do things? And, if so,
19 then I think that, you know, they are going to
20 need your help in making that decision.

21 MR. ELLIOTT: This is Larry
22 Elliott, John. And our report stops short of

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1 making a recommendation on -- in that regard.

2 We simply -- Brant and the team that has done
3 this evaluation's efforts have been
4 straightforward to try to identify, by
5 comparison, which is the most scientifically
6 robust dataset. And this report speaks to
7 that on its own merits.

8 And Department of Labor has the
9 report now. They will look into this report.

10 They may choose to examine some more of the
11 4,136 in some way. If they ask us for further
12 comment or opinion or scientific evaluation,
13 we will have to take that up if they approach
14 us with that.

15 DR. MAURO: Larry, and you know
16 what I heard is that you folks did a little
17 homework to check to see, well, what the
18 impacts might be if they did that. And your
19 indication is it is modest. And I would say,
20 well, that is really not the question at hand,
21 you know, if you were to include it, what
22 would really happen?

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1 The real question is, should it be
2 included? And I think should it be included
3 is a judgment call on whether or not there is
4 a group of people that probably should be
5 included within the class because they did
6 have a potential for neutron exposure. If
7 that judgment is to be made by Labor, then
8 that is where the judgment will lie.

9 DR. NETON: Yes, I agree, John.
10 This is Jim Neton. I mean, the report clearly
11 defines, describes, how both studies were
12 done. And Brant has described that here in
13 some detail, and it is all in there, and
14 you're right. The question is, should you
15 use one, the other, or both?

16 CHAIRMAN GRIFFON: That is the
17 question. This is Mark Griffon. I think we
18 are going to end up going around in circles a
19 little bit, so I am going to try to truncate
20 it here. I wanted to hear from other work
21 group members, if other work group members had
22 the opportunity to review this or have any --

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1 any initial thoughts anyway. I know we
2 haven't had a lot of time with the report.

3 MEMBER MUNN: This is Wanda. I am
4 certainly glad to make a brief comment,
5 although I don't think what I have to say will
6 add anything. It is quite clear to me that an
7 enormous amount of work has been done both at
8 the group level and individually with respect
9 to this database. And I say "this database"
10 rather than "these databases" because it is
11 also fairly clear that there is good evidence
12 to support the work that has been done and
13 redone to identify the proper individuals for
14 this SEC.

15 Whether we move forward with it
16 any further seems to be a moot point. It is
17 very difficult to see how any additional work
18 could be done than has been done already. The
19 report that we have been given just last week,
20 with respect to the work that has been done by
21 NIOSH, is clear. It, I believe, covers all of
22 the issues.

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1 Dr. Ulsh today has made a very
2 good summation of the findings that we have,
3 and it is difficult to see where this working
4 group and NIOSH could take this further.

5 I personally am satisfied with the
6 work that has been done. If there are
7 additional administrative decisions to be
8 made, it clearly is outside the purview of
9 this group and is in the hands of other
10 organizations.

11 MEMBER PRESLEY: This is Bob
12 Presley. I agree with that 100 percent. I
13 don't think we are going to settle anything,
14 and everything looks in good shape to me.

15 MEMBER GIBSON: Mark, this is
16 Mike. I feel -- it just sounds like to me
17 that SC&A still has some legitimate concerns.

18 And, you know, I think NIOSH has responded to
19 the concerns, but I don't think that
20 necessarily satisfies the concerns that they
21 have.

22 CHAIRMAN GRIFFON: Yes. And,

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1 Mike, this is Mark Griffon. I would agree
2 with that for sure. I think at the very
3 minimum I want to see, you know, the -- just
4 to be able to go through the spreadsheets that
5 Brant referenced and he will -- he said he
6 would share them on the O: drive with us, so
7 that is not a problem.

8 But also, I think -- so that would
9 be one action item I would ask for out of this
10 meeting is to share the analysis files with us
11 and SC&A. The second would be if we can -- I
12 know, Larry, you said that you sent the report
13 to Margaret.

14 I think we need to -- because of
15 her relationship with the community there, I
16 think it is really important that we let --
17 that we, you know, solicit comments from her
18 on this, and whether it -- you know, she is in
19 agreement with this or has, you know, some
20 technical comments, but, you know, whatever.
21 I think we need to try to get comments from
22 her on the report. So at least those two

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1 actions.

2 I don't know if you -- Larry, do
3 you agree with that? Or Brant?

4 MEMBER MUNN: This is Wanda.
5 Before Larry or Brant answers that, did I
6 misread the report? I was of the impression
7 that an attempt had been made to obtain any
8 comment prior to the issuance of the report,
9 and there had been no response. Was I
10 incorrect?

11 CHAIRMAN GRIFFON: Well, I think
12 there was some attempt to communicate with
13 Margaret on some technical questions, and
14 then, I am not sure why, but, yes, it -- I
15 read that, too, Wanda, that I think it was in
16 middle May or late May where you were trying
17 to get hold of Margaret for some technical
18 questions on the database and weren't getting
19 phone calls returned. But we know she is
20 around.

21 I mean, I don't think -- Larry
22 said that she hasn't seen the report until

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1 this morning I think was what you said, Larry.

2 And I think we should let her see the final
3 product anyway, regardless of why she wasn't,
4 you know, getting back to them during the
5 process.

6 MR. ELLIOTT: This is Larry
7 Elliott. And yes, Wanda, I think Mark is
8 correct. You are somewhat mistaken. The
9 report does not say that Margaret Rutenber
10 was asked for comment on the report and didn't
11 provide that. The report says that we tried
12 to gain clarification and additional insight
13 from her on a few technical points, and
14 unfortunately she was non-responsive. Mark, I
15 don't have a problem with you guys -- if that
16 is what the working group wants to do, to
17 approach Margaret Rutenber and seek her
18 comment on this report, that's fine.

19 CHAIRMAN GRIFFON: I think that --
20 I mean, that's my position right now, Larry.
21 And I think, you know, if -- I mean, we need
22 to certainly get her to weigh in because I

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1 know that she has worked with a lot of the
2 workers out there before, and, you know, they
3 have asked if she -- Terrie very specifically
4 put this question on the table. I think it is
5 important that we get, you know, her opinion
6 on the report.

7 And then, I would personally like
8 to see the analysis of it, just to understand
9 a little better, you know, of those 100 cases
10 and how the triage process -- I listened to
11 it, and I think I understand it pretty well,
12 but I always like to -- it might be useful for
13 us to look through the spreadsheet.

14 At this point, I mean, you know,
15 other than reviewing these materials that are
16 posted on the O: drive, I am not ready to say
17 -- you know, to task SC&A with any, you know,
18 extensive further review. But, you know, I
19 think, you know, just at least to -- John, I
20 think you can, under your current task, review
21 data that is posted in support of this report
22 sort of.

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1 But I don't want any more
2 expansive, you know, review at this point. I
3 think that -- if we decide to do that, that
4 has to probably -- that should go back to the
5 full Board anyway, so --

6 DR. MAURO: No, we were not
7 planning any action other than this phone
8 call.

9 CHAIRMAN GRIFFON: Okay.

10 DR. MAKHIJANI: Well, if -- Mark,
11 let me get some clarity on what you have just
12 said. You said that some -- some more -- a
13 brief looking into the background and analysis
14 of the report would be in order, but not sort
15 of an extensive review.

16 CHAIRMAN GRIFFON: That is my --
17 yes.

18 DR. MAKHIJANI: Is that what -- so
19 you are saying that we should do a little bit
20 more in terms of just understanding the report
21 and what went into it.

22 CHAIRMAN GRIFFON: Understanding

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1 of the numbers and stuff, yes. And then, only
2 to the extent that it is reviewing the
3 analysis files that are put up. But, I mean,
4 if you -- you know, for instance --

5 DR. MAKHIJANI: If we could have
6 the analysis files for these 100, that would
7 be the most sort of brief thing we could do
8 before the Board meeting.

9 DR. MAURO: Mark, I have to ask a
10 question, because it is troubling me, and that
11 is that if the question really is not so much
12 -- well, listen, if we were to include all
13 these folks, these 4,000, it really wouldn't
14 have very much of an impact, and that is what
15 the 100 sampling did.

16 But that's not the question in
17 front of us. The question is, notwithstanding
18 the result of that, the question really is,
19 should these 4,000 people be part of the
20 definition of the -- because the Rutenber
21 data is fundamentally sound. And if they
22 claim that these people had a potential for

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1 neutron exposure, they have to be included and
2 under consideration. That really is the heart
3 of the question, not what the impacts would be
4 if you included them.

5 CHAIRMAN GRIFFON: Yes. I think
6 you're right. But I want to -- I mean, I
7 think we need to look at the way NIOSH did
8 their analysis first. But I think you're
9 right. And that's a decision -- perhaps as
10 Larry or Brant -- I forget who stated it, but
11 the idea of, how DOL wants to use this. You
12 know, that's sort of up to the -- up to Labor,
13 but it doesn't, you know, preclude us from
14 weighing in about it.

15 So, you know, I think I just -- I
16 am not at a -- at a point where I want to, you
17 know, make any motion for whether this -- you
18 know, that approach is appropriate or not,
19 John. I think I just don't know enough about
20 those 4,000 versus the 100 sampling, et
21 cetera.

22 You know, if you look at it like

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1 Arjun did, you can -- you can say, well, it's
2 51 percent. But that's including that
3 Building 881, so I think I want to have a
4 chance -- an opportunity to sort that out a
5 little more in my mind, and maybe, you know,
6 bring the case before the full Board at some
7 point.

8 MR. ELLIOTT: Mark, this is Larry
9 Elliott. I might suggest that a little bit of
10 forbearance here might benefit everybody, in
11 that if we allowed DOL time to digest this
12 report, and determine how they are going to
13 react to it, and how they are going to utilize
14 or not utilize the Ruttenger database, this
15 all may go away.

16 CHAIRMAN GRIFFON: Sure. That is
17 true. And DOL I assume has -- well, it is
18 publicly available, so -- but I'm sure you
19 have given them copies of the report.

20 MR. ELLIOTT: Well, yes.

21 CHAIRMAN GRIFFON: Yes.

22 MR. ELLIOTT: They are the primary

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1 target audience for this report. They are the
2 ones that need to have it to adjudicate under
3 it.

4 CHAIRMAN GRIFFON: Yes. And that
5 is the other question. I mean, we always go
6 -- we always ask our questions of DOL of, you
7 know, implementation of the class. And this
8 is the implementation of the class question,
9 right? So I think in that respect we could
10 ask them at a Board meeting. They may not be
11 prepared at this one because they have just
12 gotten the report. But we could ask them that
13 sort of question at a Board meeting. Is that
14 your understanding, Larry? I mean --

15 MR. ELLIOTT: Yes, that is -- you
16 know, I would hope that they have had -- it's
17 19 pages. I hope they had time to read it
18 over the weekend, and by next week they will
19 have some sense of which direction they are
20 going to go perhaps. I will alert them that
21 they can anticipate a question of that sort.

22 CHAIRMAN GRIFFON: Yes, definitely

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1 alert them that they can anticipate that.

2 All right. I think that's a good
3 place to leave it. The one thing I wanted to
4 ask is -- we have a lot of people on the phone
5 call, and I think members of the public might
6 have -- Terrie, I tried to get your one
7 question out there, but if you or others have
8 other questions at this point.

9 MS. BOLLER: Mark, I have one
10 question. I think there was a question --
11 this is Carolyn at Senator Udall's office. I
12 think there was a question about how many
13 people are on the NDRP list.

14 CHAIRMAN GRIFFON: Oh, yes.
15 Mutty, did you ever find that question? The
16 answer?

17 MR. SHARFI: Yes. Is the question
18 for during the SEC period or just in the NDRP
19 total?

20 CHAIRMAN GRIFFON: Well, as long
21 as we are comparing apples and apples, I think
22 the 4,163 was during the SEC period, right?

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1 So I think I want to know --

2 MS. BOLLER: Well, what I would
3 like to --

4 CHAIRMAN GRIFFON: -- the SEC
5 period.

6 MS. BOLLER: Sorry, Mark. What I
7 would like to know is how many people during
8 the SEC period are on the list for NDRP? And
9 how many of those names on that list match --
10 this is not going to come out right, but match
11 the Rутtenber list?

12 So, like, is Joe Blow on both of
13 them? Or is he only on one? So are we really
14 talking about 4,000-plus? Or some of that
15 4,000 already included? It's that 50 percent.
16 Does that make sense?

17 CHAIRMAN GRIFFON: Yes, yes.

18 MS. BOLLER: Am I rambling?

19 CHAIRMAN GRIFFON: Mutty, did you
20 get that question? I mean, I think you
21 presented the -- I had that question, too. Is
22 the 4,163 workers that we have been talking

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1 about, is that additionally or above the ones
2 identified in the NDRP?

3 DR. ULSH: This is Brant. The
4 4,163 is the people who were in -- who had
5 positive neutron dose in the Rутtenber, but
6 not in the NDRP.

7 CHAIRMAN GRIFFON: Right.

8 DR. ULSH: Does that answer your
9 question?

10 CHAIRMAN GRIFFON: Well, how many
11 were in the NDRP during that same time period
12 where you got the 4,163 number?

13 DR. ULSH: I don't know. Mutty,
14 do you know?

15 MR. SHARFI: Mark, I can give you
16 some indication by the fact that there are
17 5,000 and odd people in the SEC currently, if
18 I remember the number correctly. So, for the
19 SEC period it would probably be something on
20 that same order. In the NDRP, it would be
21 something less, obviously. So --

22 MEMBER MUNN: This is Wanda.

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1 MR. SHARFI: -- we are talking on
2 the order of 5,000.

3 MEMBER MUNN: This is Wanda.
4 Remember, the report indicates that there are
5 also 486 individuals on the NDRP list that are
6 not on the Ruttenger database.

7 CHAIRMAN GRIFFON: Right.

8 MEMBER MUNN: So you can't simply
9 say one excludes 4,163 and not include the
10 fact that it does, nevertheless, include 486
11 that do not appear in that 4,163.

12 CHAIRMAN GRIFFON: Yes, yes, which
13 adds a little more uncertainty.

14 MS. BOLLER: Yes.

15 CHAIRMAN GRIFFON: That's true.
16 Anyway, I'm not sure we have an answer from
17 Mutty on that number, but we can get that down
18 the line. I mean, I don't see that as
19 critical right now.

20 MR. SHARFI: There is about 3,700
21 people that have pre-1967 dose in the NDRP. I
22 believe -- and Brant can correct me -- I think

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1 the 4,163 are people that don't have a
2 matching year. Is that correct, Brant? Or is
3 that any match?

4 DR. ULSH: How about if we get
5 back to him on this? I don't want to give the
6 --

7 CHAIRMAN GRIFFON: Yes, this is
8 why we want the analysis files, okay?

9 DR. ULSH: Yes.

10 CHAIRMAN GRIFFON: Let's leave it
11 there.

12 Any other questions from the
13 public?

14 MS. BARRIE: Yes. This is Terrie,
15 and thank you, Mark, for asking that question.

16 CHAIRMAN GRIFFON: Terrie Barrie?

17 MS. BARRIE: Yes, Terrie Barrie
18 with ANWAG.

19 CHAIRMAN GRIFFON: Yes.

20 MS. BARRIE: And what I would like
21 to -- since you are going to be going to the
22 Department of Labor eventually to have them

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1 finalize who should be included in the class,
2 I honestly think that they should get a report
3 from SC&A to balance out -- and not just give
4 DOL the NIOSH report. I think it needs to be
5 balanced out to be fair, if you understand
6 what I am trying to get at.

7 CHAIRMAN GRIFFON: Yes. And I am
8 stopping short right now of tasking SC&A with,
9 you know, developing a report. But it gives
10 us a couple of weeks until the Board meeting,
11 and we will have an update at the Board
12 meeting on this.

13 MS. BARRIE: Okay.

14 CHAIRMAN GRIFFON: And in the
15 meantime, I am hoping that the data will be
16 posted, and we will have a few -- at least a
17 few days to look at that data. And we may
18 come to the same conclusion that we need --
19 you know, but I am stopping short right today,
20 if that's okay, Terrie. But we will -- we
21 will bring it up at the Cincinnati meeting
22 next week during my work group update.

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1 MS. BARRIE: Okay.

2 CHAIRMAN GRIFFON: And if I
3 forget, you will remind me.

4 MS. BARRIE: I will.

5 CHAIRMAN GRIFFON: Okay.

6 MS. BARRIE: Thanks.

7 CHAIRMAN GRIFFON: All right.

8 MR. McKEEL: This is Dan McKeel.

9 CHAIRMAN GRIFFON: Hi, Dan.

10 MR. McKEEL: Hi. I have a comment
11 I guess. My comment is, it seems to me there
12 have been questions asked about how many
13 people total are in the NDRP, how many of them
14 were present during the SEC period, and same
15 sort of thing for the Rутtenber dataset.

16 And it was my understanding that
17 the basic analysis that was going to be done
18 is a detailed comparison and characterization
19 of those two datasets. So it seems to me that
20 the NIOSH report should have all of that data
21 clearly specified in a table. It could be a
22 very short table, you know, four cells, but

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1 that that information should be in the NIOSH
2 report. And if it's not, then that should be
3 added as an addendum.

4 And the other comment I have that
5 is related to that is Terrie Barrie obtained,
6 via the FOIA mechanism, some email
7 communications leading up to this report. And
8 one that I remember -- I don't remember the
9 exact details, but Brant Ulsh commented in
10 particular on a discrepancy between the two
11 datasets where there were cases in the
12 Ruttenber dataset that did not appear in the
13 NDRP dataset.

14 And I think that is very important
15 because, as I remember the previous
16 discussions, the folks at NIOSH, including
17 Brant and Larry Elliott and several others,
18 had made the comment that the reason that the
19 Ruttenber dataset was not examined for the
20 last two years was that there was no
21 significant difference between the two.

22 And today -- and in the report it

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1 is quite clear that there are many differences
2 between the two datasets, even though they may
3 have originated from the same original source.

4 But the two datasets are different.

5 And when I tried to read through
6 those 19 pages that I got just recently, on
7 Friday I think, I couldn't clearly discern,
8 you know, an A versus B comparison. So I
9 would just like to make the comment from one
10 observer that that report is not clear about
11 what the basic mission of the NIOSH analysis
12 was supposed to be as I understood it.

13 And for that reason, I would like
14 to endorse the idea that I would like SC&A --
15 I understand that this may be premature and
16 that the Board needs to do that tasking, but I
17 certainly would like to endorse the concept
18 that eventually SC&A needs to do their own
19 independent characterization and comparison of
20 those two datasets.

21 Thank you.

22 CHAIRMAN GRIFFON: Thank you, Dan.

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1 And I tend to agree that a couple of tables
2 in this report might have been helpful. But
3 we are going to get that backup support data
4 and look through it certainly, and I think
5 that might help us to, with the written
6 report, understand this a little better.

7 But thanks -- thanks for your
8 comment. And we will -- again, I will bring
9 that up at the full Board meeting, and whether
10 we go forward with tasking we will try to
11 determine there.

12 Any other comments at this point?

13 (No response.)

14 I think that is where I am
15 prepared to leave it. So there is just two
16 actions on the table. One is to get the
17 supporting analytical data on the O: drive,
18 and the other would be to -- if NIOSH could --
19 I know you have made attempts already this
20 morning, but to solicit comments from Margaret
21 Ruttenber on the report.

22 MR. ELLIOTT: No, Mark, I think

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1 that's a work group effort. NIOSH has stated
2 its position in this report. You know, this
3 has been cleared, and it's an institute
4 report. If you guys want to approach Margaret
5 to seek her comment, that's your prerogative.

6 CHAIRMAN GRIFFON: Okay. Then, I
7 will take that action on myself. All right.
8 Any other comments?

9 MS. PADILLA: My name is Judy
10 Padilla. I have one question.

11 CHAIRMAN GRIFFON: Go ahead, Judy.

12 MS. PADILLA: I recently received
13 a letter from Rachel Leiton. In that letter
14 she said that NIOSH has exclusive
15 responsibility to conduct the dose
16 reconstruction. Okay. That being true, NIOSH
17 is the final say in the 50 percent.

18 And my question is, I would like
19 to know if there is verification and
20 validation of the software of the matrices
21 from NIOSH? And why can't the people who are
22 denied see these things?

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1 CHAIRMAN GRIFFON: Well, I think
2 that is a little broader question, but, Jim
3 Neton, do you want to --

4 DR. NETON: Yes, this is Jim
5 Neton. It's coincidental I guess, but just as
6 of Friday we put on our website a verification
7 of the NIOSH IREP software that was done by
8 our contractor. It is under the IREP tool
9 page on our website, and there is a 500-page
10 report out there that goes through in some
11 detail a review of all of the calculations
12 that were done. I will be reporting on this
13 at the Advisory Board meeting next week in
14 Cincinnati.

15 CHAIRMAN GRIFFON: And maybe
16 listen in on the Cincinnati Board meeting, if
17 you can, Judy. Dial in for that. You might,
18 you know, get further on your answer there.

19 MS. PADILLA: I'll do that.

20 CHAIRMAN GRIFFON: More
21 information.

22 Okay. Anything else?

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1 MEMBER PRESLEY: This is Bob. I'm
2 in good shape.

3 CHAIRMAN GRIFFON: All right. I
4 think we are ready to break at this point, if
5 there are no other comments.

6 (No response.)

7 Thank you all, and we will be
8 looking for that data. And we will discuss it
9 more at the full Board meeting.

10 (Whereupon, the above-entitled
11 matter went off the record at 11:23 a.m.)

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