

UNITED STATES OF AMERICA
CENTERS FOR DISEASE CONTROL

+ + + + +

NATIONAL INSTITUTE FOR OCCUPATIONAL
SAFETY AND HEALTH

+ + + + +

ADVISORY BOARD ON RADIATION AND
WORKER HEALTH

+ + + + +

82nd MEETING

+ + + + +

TUESDAY
FEBRUARY 28, 2012

+ + + + +

The meeting convened at 9:45 a.m., Pacific Standard Time, in the Waterfront Hotel, 10 Washington Street, Oakland, California, James M. Melius, Chairman, presiding.

PRESENT:

JAMES M. MELIUS, Chairman
HENRY ANDERSON, Member
JOSIE BEACH, Member
BRADLEY P. CLAWSON, Member
R. WILLIAM FIELD, Member
MICHAEL H. GIBSON, Member
MARK GRIFFON, Member
JAMES E. LOCKEY, Member
WANDA I. MUNN, Member

NEAL R. GROSS

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

PRESENT: (continued)

DAVID B. RICHARDSON, Member
GENEVIEVE S. ROESSLER, Member
PHILLIP SCHOFIELD, Member
PAUL L. ZIEMER, Member
TED KATZ, Designated Federal Official

REGISTERED AND/OR PUBLIC COMMENT PARTICIPANTS:

ADAMS, NANCY, NIOSH Contractor
AL-NABULSI, ISAF, DOE
ARMIJO, ROBERTO*
BATT, CHRISTINA, CDC
CIVILETTO, SAMUEL*
COX, CHRIS, HHS
CRUZ, RUBEN, CDC
FITZGERALD, JOE, SC&A
GLOVER, SAM, DCAS
HINNEFELD, STU, DCAS
KINMAN, JOSH, DCAS
KOTSCH, JEFF, DOL
LEWIS, GREG, DOE
LIN, JENNY, HHS
MAKHIJANI, ARJUN, SC&A
MCFEE, MATT, ORAU
MCKEEL, DAN*
NETON, JIM, DCAS
ROLFES, MARK, DCAS
RUTHERFORD, LAVON, DCAS
STIVER, JOHN, SC&A

*Participating via telephone

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

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

Welcome, Dr. James Melius, Chair	4
NIOSH Program Update Mr. Stuart Hinnefeld, NIOSH	6
DOL Program Update; Outreach Mr. Jeffrey Kotsch, DOL	30
DOE Program Update Mr. Greg Lewis, DOE	59
NIOSH 10-Year Program Review Implementation Dr. James Melius, Chair	98
Electro Metallurgical (Niagara Falls, NY) SEC Petition Dr. Sam Glover, NIOSH; Mr. John Stiver, SC&A; Dr. Henry Anderson, WG Chair; Petitioners: Mr. Samuel Civiletto	108
Board Work Session Dr. James Melius	168
Hangar 481 SEC Petition (Kirtland Air Force Base) Dr. Sam Glover; Petitioners, Mr. Robert Armijo	208
Status of Activities for Lawrence Berkeley National Laboratory and Stanford Linear Accelerator Mr. Stuart Hinnefeld, NIOSH; Dr. Paul Ziemer, WG Chair; Mr. Joseph Fitzgerald, SC&A	260
Public Comment	279

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

2 9:30 a.m.

3 CHAIRMAN MELIUS: Good morning. I
4 am Jim Melius, Board Chair. Welcome,
5 everybody, and I will turn over to Ted.

6 MR. KATZ: Are our phone lines
7 open? Thank you.

8 CHAIRMAN MELIUS: And, Ted, you
9 can do your thing.

10 MR. KATZ: Thank you, Dr. Melius,
11 and welcome, everyone at the Board, in the
12 room, and on the line, to the Advisory Board
13 on Radiation Worker Health, it is the 82nd
14 meeting here in Oakland. We are glad to be
15 here.

16 To let people know on the phone,
17 there are materials for the presentations for
18 the Board on the NIOSH website under the Board
19 section, under the Meeting section, and all
20 the formal presentations should be posted
21 there at this point; and I also just note for
22 people on the phone, please mute your phones

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 so that it doesn't interfere with the meeting
2 except those of you that are addressing the
3 meeting at different points.

4 To mute your phone, you press *6,
5 and then to take your phone off of mute, you
6 press *6 again, and also please don't put this
7 call on hold at any point, because that
8 interrupts the call for everyone else on the
9 phone. So hang up and dial back in, if you
10 need to leave the meeting for some period.
11 Thanks for that.

12 Let us run through Board
13 attendance. So we will take a formal roll
14 call, and we have several sites we are
15 discussing today. So if one of those sites
16 you have a conflict for, please note that as
17 we go through roll call, and let's begin with
18 the Chair.

19 (Roll call.)

20 MR. KATZ: Thank you very much.
21 Dr. Lemen, are you on the phone with us, by
22 any chance? We will check again for Dr. Lemen

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 after lunch.

2 CHAIRMAN MELIUS: Good. Our first
3 presentation today is Stu. There you are. I
4 couldn't find you. I thought you had run out
5 on us.

6 MR. HINNEFELD: Well, I have
7 managed to resist the urge so far.

8 I think everybody here knows me.
9 If you don't, I am Stu Hinnefeld. I am the
10 director of Division of Compensation Analysis
11 and Support. I also am supposed to know how
12 to run a computer. So that remains to be
13 seen. I don't know how to run the computer.
14 I can tell you that. It takes its own time.

15 The presentation that is in your
16 package includes our normal program update and
17 program statistics. As is our recent
18 practice, I don't intend to go through the
19 statistics too much. I will just briefly
20 mention a synopsis, that at this point we have
21 now received over 36,000 claims for dose
22 reconstruction. We have dispositioned, either

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 through dose reconstruction or cases being
2 pulled or administratively closed or pulled
3 for SEC, all but about 1,000 of them.

4 Then, of those 1,000, there are
5 about 250 that are in the hands of the
6 claimants. We have draft dose reconstructions
7 in the claims. So the actual number of cases
8 in front of us that we know we have to work is
9 somewhere between 700 and 800.

10 So we have made a lot of progress
11 on the dose reconstruction, and we are being
12 pretty successful at getting those out in a
13 timely fashion in nine months, except for a
14 couple of longstanding issues that sites have
15 been out for a long time, but we think we will
16 disposition this year.

17 Going through then the actual news
18 portion of the presentation, I have been
19 giving updates on internal staff assignments
20 for the last two meetings, because Chris
21 Ellison has been acting on a detail as the
22 Deputy Director of our Division, because David

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Sundin, the Director -- or the normal Deputy
2 Director of our Division was on a detail in
3 another NIOSH office across the street.

4 David's detail ended Friday. So
5 as of yesterday, David is back as the Deputy
6 Director, and Chris is going back to doing
7 just one job, which is Team Leader for our
8 Communications Team. So she has been
9 essentially laying both roles while she was
10 acting as the Deputy Director.

11 So Dave Sundin -- you will again
12 see his name in our communications where you
13 have normally seen him, and you will see
14 Chris' name then on Communications, really, to
15 reflect the activities of our Communications
16 Team. Chris just did a marvelous job. I was
17 really happy with the job she did in the
18 position. I think it may have stressed her a
19 little bit. I know she spent a lot of long
20 days trying to keep up with everything.

21 One big piece of news that, I
22 guess, probably everybody knows already, but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 it was kind of significant from our
2 standpoint. So I want to make sure I talk
3 about it. That is that on February 6th, HHS
4 published a final rule about Probability of
5 Causation that essentially adds chronic
6 lymphocytic leukemia as one of the covered
7 cancers in the program.

8 When the Probability of Causation
9 rule was first published -- that is Part 41,
10 right? -- 42 CFR 81. When that was first
11 published, chronic lymphocytic leukemia was
12 assigned to Probability of Causation of zero,
13 because there was general consensus that it
14 hadn't been shown to be radiosensitive.

15 In the intervening years, there
16 was a fair amount of discussion about, well,
17 there really does seem to be some evidence
18 that it might be. There are a number of other
19 cancers where the evidence is at least
20 similar. So we pursued and managed to
21 accomplish this rule change, that it is a
22 really minor change to the rule.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 It essentially removes one
2 sentence, which says chronic lymphocytic
3 leukemia is assigned a probability of zero,
4 but it has the effect then of making chronic
5 lymphocytic leukemia a covered cancer. We
6 expect some small influx of claims. We
7 estimate maybe 300 claims that were submitted
8 but never accepted by DOL that they had.

9 The Department of Labor can pull
10 those back out. People don't have to reapply.

11 They can pull those out, and then they will
12 forward those to us for dose reconstruction.
13 This adds them to dose reconstruction. This
14 rule change does not add them to the
15 presumptive cancer list. So it is
16 available for dose reconstruction, that those
17 models and the Probability of Causation IREP
18 models have been worked out and are being
19 finalized. The effective date of the rule
20 change is March 7th, which is 30 days after
21 the date of publication of the final rule.

22 So we will start to see those

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 cases going through the final steps of the
2 process at least sometime when they get there.

3 I am not 100 percent sure if Labor has
4 started referring them or not, but there won't
5 be any Probability of Causation determinations
6 made until after March 7th.

7 We have made a bit of a change in
8 our worker outreach process to, we believe,
9 better serve our -- integrate it into our
10 operations, our Division operations. Our
11 worker outreach contractor has, in large part,
12 pursued outreach at areas that we feel like
13 there is interest in the site, where we can
14 develop populations to either share
15 information with covered populations or to
16 obtain information from the population. We
17 try to do our outreach in both ways in terms
18 of people to talk to in that process.

19 It occurred to us that, in our SEC
20 process, we also attempt to find people to
21 interview. That is one of the things we ask
22 petitioners, is do you have people -- do you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 know of people that you think we should
2 interview as part of our Evaluation Report
3 investigation of this SEC petition.

4 On our own device, we would tend
5 to look for places where contact with the site
6 would take us: Site management, and so you
7 would tend to get former safety and health
8 managers, operation managers and things like
9 that.

10 We said, well, we really ought to
11 try to -- when we pursue people to interview,
12 first of all, we shouldn't put a burden on the
13 petitioner to identify -- certainly, if they
14 have people they know, but we shouldn't make
15 them the major contributor. They shouldn't
16 have to come up with a large number. We don't
17 want to put that burden on the petitioner, and
18 we should also try to make sure we have a
19 broad list of interviewees.

20 So we have asked our outreach
21 contractor, who is adept at identifying worker
22 groups, whether it be organized labor or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 retiree groups and things like that, to make
2 these outreach efforts, too. So we have
3 incorporated their efforts now into our SEC
4 evaluation process in hopes of trying to
5 broaden the types of employees that we
6 interview during our initial Evaluation Report
7 for the use of SEC.

8 So that is being worked out. It
9 is being done at some sites now. I have a
10 couple of pretty good reports from people who
11 have worked on our project that the outreach
12 contractor is pretty helpful, this is really
13 going well at this particular site. So we are
14 hopeful that that will add that for us, and
15 also make it easier to find people to
16 interview as we investigate these Evaluation
17 Reports.

18 Then finally, an update on 10-year
19 program review action items. I have only some
20 very brief things to mention here, because
21 since we have a number of actions to do on 10-
22 year review, it turns out we also have other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 jobs that we are trying to do to accomplish
2 what we have to do on the program. We have
3 our jobs to do as well as these process
4 changes.

5 So it is always slower than you
6 would hope when you start to embark upon
7 things that -- evaluation of the process that
8 you are using.

9 We have, though -- in the area of
10 quality of science review, one of our
11 recommendations that we received was to
12 evaluate some EPA documents that speak of
13 surrogate data usage and risk assessment, and
14 we did agree that we would have, say, a non-
15 health physics person -- in this case, it is
16 an industrial hygienist, look at those
17 documents and look at what we do, give us some
18 evaluation of how does this document provide
19 us guidance that maybe we should adopt in our
20 program.

21 We have, I believe, just a draft
22 so far, a draft report, and it is being

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 finalized by the industrial hygienist who has
2 performed that review that will have -- I
3 believe there are a couple of recommendations
4 in there for us that we will pursue,
5 completing the implementation of that.

6 In the area of dose reconstruction
7 quality -- this is in the dose reconstruction
8 area of the 10-year program review -- we have
9 been working with the Dose Reconstruction
10 Review Subcommittee, because that item was on
11 their agenda already. We have been working
12 with that in terms of ways to improve the
13 QA/QC process on dose reconstruction.

14 As part of that conversation or as
15 a result of those conversations with the
16 Subcommittee, we have adopted -- or
17 implemented a kind of a -- it is a duplicate
18 PR process where we have health physicists for
19 our organization perform what we consider a QC
20 dose reconstruction independent of what ORAU
21 does.

22 The cases to be performed in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 duplicate are chosen at random by computer
2 application. The computer application then
3 populates essentially an inbox for our staff.

4 ORAU is not told which claims are selected
5 for our review.

6 Our health physicist then does a
7 dose reconstruction following the guidance
8 that is available, and then when what we call
9 the production dose reconstruction arrives
10 from ORAU, then we have a way to compare how
11 our health physicist prepared the dose
12 reconstruction compared to how ORAU or
13 whatever contractor prepared the production
14 dose reconstruction.

15 We started selecting about two per
16 month, I think, two claims per month for this
17 process, as they come in, as they are referred
18 to us. Last I checked, there were eight of
19 those. Quite a number have been selected. I
20 think we may be up to 50 selected. That
21 sounds like too many. There are quite a
22 number selected.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 There have been eight so far where
2 we now have production dose reconstruction and
3 a duplicate that we can do comparisons. We
4 are preparing what we are going to call
5 essentially an assessment report. We are
6 going to start assessing these in blocks,
7 write a formal assessment report of what did
8 we learn from these comparisons that then we
9 will be sharing with the Dose Reconstruction
10 Subcommittee.

11 We want to do these fairly
12 frequently at the start. We may go to a less
13 frequent formal assessment kind of document
14 later on, but I don't want these to sit around
15 for six months because we are waiting to get a
16 bunch of them to do. We want to start doing
17 this very frequently.

18 Just informally, we have seen in
19 these first eight -- one of the items we have
20 seen is they tend to be biased toward AWE dose
21 reconstructions. Now the reason for that is
22 that AWE dose reconstructions are not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 typically done by ORAU.

2 They are typically done by
3 contractors, a set of contractor health
4 physicists that work essentially in our midst.

5 There are three contract health physicists
6 that work in our building. They do much of
7 the AWE work and much of the AWE dose
8 reconstruction, plus you don't have to ask for
9 DOE exposure history on an AWE. You don't
10 have that part of the process.

11 So those tend to get done on a
12 more rapid turnaround. So they think those
13 production ones came in first. They tended to
14 come in first. So we tend to have more than
15 you would expect AWE dose reconstructions in
16 these first eight, because we can start work
17 on the claim as soon as it comes in, in terms
18 of the -- well, once we get -- since we don't
19 have to wait for a DOE response.

20 What we see is there are some
21 variations in the overestimating expedited
22 processes that were used in those. Nothing in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 particular came out of those.

2 One of the claims we did get, we
3 identified that there is some lack of clarity
4 in instruction in a Site Profile. This is not
5 an AWE one, I don't believe. This had to do
6 with there was some lack of clarity in how to
7 interpret the Site Profile and individual
8 exposure record bioassay report, particularly
9 in interpreting limited protection on bioassay
10 that led to a fairly significant difference in
11 dose reconstruction from the duplicate to the
12 production.

13 We have concluded that the
14 production one was the one that was done
15 correctly. So we just need to work now on the
16 clarity of the instruction to make sure that
17 everybody is doing it appropriately. Then
18 there may be something further to follow up,
19 is did all the production -- developed
20 production dose reconstructions get done
21 right. You know, the one we have looked at
22 got done the right way. Have they all been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 done the right way, given the apparent lack of
2 clarity in the instruction.

3 So those are the kinds of things
4 we expect to learn. That is why we want to
5 look at these very quickly as they come out,
6 so these issues don't hang out there for a
7 long time, and that we start to do these
8 remedies pretty quick.

9 We will be dealing with the Dose
10 Reconstruction Subcommittee pretty closely
11 with this, and when we have the assessment
12 report, we will provide a detailed report to
13 the Dose Reconstruction Subcommittee when that
14 is ready, and we would certainly expect to
15 have it ready well in advance of their next
16 meeting, which I believe is the end of March.

17 Isn't that true, the last couple of days in
18 March?

19 So we would expect to have that
20 assessment report to the Dose Reconstruction
21 Subcommittee for discussion at their end of
22 March meeting.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I don't believe I have any other
2 news other than that, that comes to mind. I
3 am going into my statistics on my slides. So
4 I will be glad to answer any questions, either
5 about the statistics slides or what I have
6 covered so far in the meeting. Yes, Paul?

7 MEMBER ZIEMER: Stu, it sounded
8 you are doing this quality check mainly on
9 current cases as they come in, or are you?
10 Did I understand that correctly, or are you
11 going back and looking at any of the older
12 completed cases in the same manner?

13 MR. HINNEFELD: Well, there are
14 activities that are being done on some of the
15 older completed cases as well. What we are
16 trying to do, though, is to keep it with
17 pretty recent work, because dose
18 reconstruction processes have changed a lot
19 over the 10 years of the program, and a lot of
20 things that were done four or five years ago
21 are not done anymore.

22 So if there is a quality issue

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with a process that you are not using anymore,
2 what we are trying to do is fix what we are
3 doing going forward. Certainly, as the Board
4 reviews dose reconstructions -- so those tend
5 to be historical, somewhat historical at least
6 -- we then follow up from those findings to
7 determine is this a broad issue, and is there
8 something we need to look at a broad
9 population of claims? That has been going on.

10 This is sort of to make the
11 processes we are using now as we go forward,
12 to make sure those were appropriate and clear.

13 MEMBER ZIEMER: Just to follow up
14 on that, is your group attempting to get a
15 good distribution of cases over sites and
16 types of cancers, sort of parallel to what the
17 Dose Reconstruction Subcommittee is doing?
18 How are you selecting these cases?

19 MR. HINNEFELD: I will have to
20 check the criteria. I don't know, speaking
21 right here today. I know that the application
22 selects the cases. I don't know if it is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 strictly a random pull or whether it is sort
2 of a stratified and whether it has particular
3 selection criteria. I don't know.

4 MEMBER ZIEMER: Thank you.

5 CHAIRMAN MELIUS: Anybody else? I
6 have a couple of questions, Stu. I am looking
7 at your statistics slide on submittals versus
8 production. I am just curious. I can't tell
9 is that is fiscal year 2012 or calendar year.

10 MR. HINNEFELD: Those are fiscal
11 quarters.

12 CHAIRMAN MELIUS: So it seems to
13 be falling, production falling off there.

14 MR. HINNEFELD: There is a little
15 bit. Yes, production has come down recently,
16 and that is intentional. We have gotten to
17 the point where the backlog of claims is
18 essentially done. We are getting claims done
19 in about nine months, which is the objective.

20 In certain categories of claims, we are
21 getting done quicker.

22 On the other hand, though, whereas

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that sort of backlog has sort of been tamed,
2 as long as we don't let it get out of control
3 again, we have a significant backlog on the
4 technical work for the Board, SEC reviews that
5 have been going on, Site Profile reviews where
6 either the discussion has been going on or the
7 discussion hasn't been joined particularly,
8 largely waiting for us.

9 So the backlog that we need to
10 work on now is those bodies of work, the SEC
11 work and the Site Profile work. So there has
12 been an intentional shift of the resources of
13 our contractor from dose reconstruction to
14 those activities.

15 So, yes, that was an intentional
16 drop in the production rate.

17 CHAIRMAN MELIUS: Some of us were
18 talking earlier and saying that there is an
19 issue with our dose reconstruction reviews and
20 the amount of resources available for them.
21 Your response, I believe, if I understood
22 correctly, that our Dose Reconstruction Review

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Subcommittee is, what, about eighth set or
2 ninth set of reviews, and our contractor is --
3 what, you are working on the 16th or something
4 like that? The 15th?

5 MR. HINNEFELD: The 15th, I
6 think, yes.

7 CHAIRMAN MELIUS: I was trying to
8 get all this to -- how much is a resource
9 issue? How do we sort of -- and then, with
10 your increased efforts on sort of QA/QC, how
11 do we get the resources involved with these
12 efforts sort of coordinated in some way?

13 I am not expecting sort of a full
14 answer to that, but I think it is something we
15 need to be talking about here and later, and
16 probably with the Dose Reconstruction
17 Subcommittee.

18 MR. HINNEFELD: I think it is
19 certainly worth discussing with the Board,
20 because we have no particular preconceived
21 notion of priority. We come up with
22 priorities in things to work on. Now then, we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 did have a preconceived -- you know, my
2 management was really interested in the dose
3 reconstruction backlog.

4 From this point forward, I have
5 not received any kind of a marching order
6 about here is your next thing I really want
7 you to work on. So since these are Board
8 activities, whether it is dose reconstruction
9 review, procedure review or Site Profile or
10 SEC, those are all work we are doing with or
11 for the Board, however you want to look at it.

12 So I think the Board's
13 prioritization of those activities would
14 inform us. So we are not bringing an argument
15 here for one over the other.

16 CHAIRMAN MELIUS: I would think,
17 again without sort of knowing all the effort
18 involved in detail, but certainly, the SEC
19 effort should be -- I won't say winding down,
20 but diminishing. We have handled a lot of the
21 large SECs. However, there is, I suspect, a
22 backlog in terms of TBD updates and Site

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Profile, then TBD reviews at a number of these
2 sites to deal with.

3 We have the question with what we
4 were just talking about with the dose
5 reconstruction reviews and how to address
6 them. I think both of those are -- those are
7 important, because I think it is one of the
8 major mandates in the law for the Board to do,
9 and I think we need to sort of address that.

10 I think, as we go through our
11 discussions today and tomorrow, I ask all the
12 Board Members and NIOSH to be thinking about -
13 - and SC&A -- thinking sort of about how do we
14 -- what is the best way of sort of triaging
15 our available resources in a way that will
16 address these different mandates and do it as
17 efficiently as possible and as fairly as
18 possible to the claimants that are out there.

19 I don't know if any other Board
20 Members have thoughts or comments on that at
21 this point, but it is something I think we
22 need to talk about. On top of that, we have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the 10-year issues to deal with, some of
2 which, I think, will require some effort, but
3 also are intertwined in how we approach dose
4 reconstruction and SEC issues also. So a lot
5 of work there to do.

6 MR. HINNEFELD: Yes, there is.

7 CHAIRMAN MELIUS: I have one other
8 question. That is regarding the DOE response
9 to a request for exposure records, and the
10 slide is, of January 31st, had 267 outstanding
11 requests and 44 that are more than 60 days.

12 I know there is an issue with LANL
13 that we will talk about a little bit later
14 with Greg, but are there other sites where
15 there are particular problems at this point?

16 MR. HINNEFELD: The problem sites
17 are sort of dynamic, like you will have a
18 problem for a while at the site, and then they
19 will catch up, and they will be good. So
20 today, I don't know that there is any
21 particular site that is a problem, like you
22 have mentioned LANL, which, on and off, there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have been issues there.

2 Sometimes the issues are with data
3 capture for investigation, and a site may be
4 doing fine with individual exposure history
5 responses, but the data capture stuff is an
6 issue, and sometimes they have trouble with
7 individual exposure requests.

8 I believe Brookhaven is not
9 problematic with exposure history requests.
10 They were for a while. I believe they have
11 now remedied that. So I don't know of any
12 sites right now that are raising enough
13 information to rise to my level of concern.

14 CHAIRMAN MELIUS: Greg, when you
15 give your talk, we will ask questions.

16 Any other Board Members have
17 questions for Stu? We will do a conflict of
18 interest review, and everybody is quiet for
19 the rest of the day. Okay, thank you, Stu.

20 Next, Jeff Kotsch from Department
21 of Labor will give us a program update. We
22 had asked Jeff to also update us in a little

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 bit more detail than usual on the outreach
2 program.

3 MR. KATZ: While we are waiting,
4 just listening on the line I noticed some
5 people joined after we got started, and we
6 gave instructions to people listening on the
7 phone to please mute your phones. If you
8 don't have a mute button, press *6, and that
9 will mute your phone. Thank you.

10 MR. KOTSCH: Good morning. I am
11 Jeff Kotsch with the Department of Labor.

12 Just to follow on what Stu was
13 saying earlier, we have the implementation of
14 the new CLL policy, the change to the Part 81,
15 and as the DOL portion we are writing a
16 bulletin to implement that, to exchange lists
17 with NIOSH on cases that we consider are
18 affected by that.

19 Obviously, there were cases that
20 never went to NIOSH that were simply CLL as
21 the sole cancer. So we will be sending those
22 back, essentially real brain cases that were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 denied previously, sending those along with
2 the cases that we have looked at with NIOSH
3 that had CLL with another cancer but were
4 denied.

5 I thought I saw a number that was
6 in the realm of 500 of total for everything.
7 That may be high, but whatever it is. It is
8 somewhere up in that range. It is not
9 insignificant as far as our activity as far as
10 reopening and resubmitting those things. So
11 that is -- again, that becomes effective March
12 seventh.

13 Just a quick overview: there are
14 some follow-on slides to the Act and the
15 requirements of the Act, but they are in the
16 back of the attachment, and they are not
17 really addressed during the -- in the back of
18 the handout that is back there, but we won't
19 really go through those slides today.

20 Just quickly, the summary of the
21 Act is Part B and Part D were enacted in
22 October 2000. Part B is the portion that is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 basically of interest here, the mandatory
2 federal entitlement which is run by the
3 Department of Labor. Part D was the portion
4 run by DOE, which in October 2004 the Act was
5 amended, and that part became Part E and
6 transferred to the Department of Labor.

7 To date, roughly, as of January
8 16th of this year we have had 150,000 cases
9 filed, with a little over \$7.7 billion in
10 total compensation, and there you see the
11 agencies that are involved overall in the Act
12 Labor, Energy, Health and Human Services, and
13 Department of Justice for the RECA portion.

14 This is just the pie chart we
15 always send up for the Part B cases filed and
16 how they are essentially dispositioned, and 37
17 percent going through the NIOSH track, and you
18 see the other distributions, the other
19 primarily being the portion labeled other,
20 being beryllium, product beryllium, silicosis,
21 and things like that.

22 36,500 cases have been referred to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 NIOSH for dose reconstruction, and we are
2 showing 34,539 returned that are currently at
3 DOL. About 30,300 had dose reconstructions,
4 and about 4,200 without dose reconstructions.

5 And then we are showing -- and again, these
6 numbers never seem to agree ultimately because
7 of some of the disparities in our tracking
8 systems. About 1961 cases are currently at
9 NIOSH, 1,413 as initial referrals and 548 as
10 reworks.

11 This is our standing slide for the
12 status of dose reconstructions and the
13 distribution of final approvals and final
14 denials. We have 16,620 final denials and
15 8,628 final approvals, based on dose
16 reconstructions. That is 34 percent approval.

17 This is just a summary of the Part
18 B cancer cases with final decision to accept.

19 Just going through some of them: Accepted
20 dose reconstruction cases, 8,095 for 11,424
21 payees. Payees is always greater than the
22 number of actual claims or cases, because

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there are generally more than one claimant or
2 survivor in a particular case.

3 So for accepted cases, that is
4 \$1.2 billion in compensation. Accepted SEC
5 cases is about 14,818 for about \$2.2 billion
6 in compensation. Going down to the bottom
7 line, the totals for all of the accepted,
8 23,446 cases for \$3.4 billion in compensation.

9 This is just the Part B summary
10 for final decisions for all covered
11 applications, 34,858 final decisions for
12 approval and 24,362 final decisions for
13 denial, and you see the breakdown beyond that
14 as far as whether it is a PoC less than 50,
15 eligibility or survivors or medical
16 information which was insufficient to support
17 the claim.

18 This is just the running bar chart
19 by month for new Part B cases received by
20 Labor. Running in the early part of that year
21 around 400 per month, and down slightly but
22 still probably averaging either in the high

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 300s or low 400s, fairly steady still.

2 The next slide is just the
3 referrals to NIOSH over the past year, maybe a
4 slightly downward trend, but still running
5 probably in the mid-200s to upper 200s per
6 month. Again, the difference is the ones that
7 we take off the top as far as automatic SEC --
8 existing SEC Classes or chronic relief for
9 silicosis, things like that.

10 This slide is the top four work
11 sites generating new Part B cases. We just
12 took this data for the first quarter of this
13 fiscal year, which is October 2011 through
14 December of 2011.

15 So the four that we are showing is
16 Sandia National Lab, 139 new claims; Hanford,
17 107 new ones; Y-12 plant, 102; and Savannah
18 River, 90 new claims.

19 As far as -- Jim had asked for an
20 outreach update. In response to the new SECs,
21 during fiscal year 2012 and to date, we have
22 had three town hall meetings, and traveling

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 resource centers were conducted for Sandia
2 National Labs. That was November 1st of last
3 year, GE Evendale in Ohio. That was November
4 2nd, and the Y-12 plant on January 18th of
5 this year.

6 The upcoming SEC town hall
7 meetings and traveling resource centers that
8 are scheduled for Pantex Plant for March 14th,
9 or tentatively for Linde Ceramics in April of
10 2012, and Savannah River in either April or
11 May 2012. I gave the website there, DOL's
12 website for the address, if you want to check
13 upcoming events.

14 In the case of smaller SECs, press
15 releases are issued. I don't have specific
16 sites, but I know that October 13th of last
17 year they sent out press releases in Wisconsin
18 and Ohio, and February 1st of this year they
19 sent out press releases in New Jersey and
20 California. I don't know the specific sites,
21 though. That was related to this slide,
22 actually, outreach to covered facilities with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 50 or less claims, where they have identified,
2 focusing on some of the effort of sites where
3 there are 50 or less fewer claimants. Those
4 two press releases I talked about were
5 focusing on those, primarily. The bulk of
6 those are AWE sites.

7 Efforts are concentrated to notify
8 individuals who worked at these facilities,
9 and present them information as far as
10 potential benefits of the Act through the
11 issuance of press releases, reaching out to
12 unions, local government, other key
13 stakeholders, and utilizing as much as
14 possible the staffs of our resource centers.

15 I don't know if Stu mentioned it,
16 but I know Greg usually mentions the Joint
17 Outreach Task Group. There you see the
18 membership. It is Labor with our Ombudsman,
19 NIOSH with their Ombudsman, and the DOE Former
20 Workers Medical Screening Program.

21 This is just a summary of the 2011
22 town hall meetings that they had at Kansas

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 City Plant in October of last year, Oak Ridge
2 in April -- I'm sorry, October of 2010 -- Oak
3 Ridge in April of 2011, Savannah River in May
4 of 2011, and Fermi National Accelerator Lab
5 and Argonne East on June 7th. I think they
6 are still working on finalizing the schedule
7 for this year.

8 These are just the standard slides
9 we put together for statistics for either
10 local facilities or facilities that are on the
11 agenda during the two-day meeting. I am just
12 going to the last slide, the three local one
13 is Lawrence Berkeley. You see 713 Part B and
14 E cases or claims. We have had 150 Part B
15 approvals, 148 Part E approvals for a total of
16 \$34.2 million for total compensation and
17 medical bill payments. Stanford Linear
18 Accelerator had 121 Part B and E claims.
19 There were 10 Part B approvals and 13 E
20 approvals, for \$2.9 million. Then Lawrence
21 Livermore National Lab, 2,937 Part B and E
22 claims, 745 approvals for Part B, 661 for Part

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 E, for a total of \$160.3 million.

2 Then like I said, beyond that for
3 the handout there are some other statistics.
4 There is some other background. Are there any
5 questions?

6 CHAIRMAN MELIUS: Yes. Dave?

7 MEMBER RICHARDSON: I had a couple
8 of questions, I guess, about the outreach
9 issues. One was: This is partly spurred by
10 my continued surprise by the number of
11 facilities, particularly these early
12 facilities, when I feel like I have made kind
13 of a considered effort to try and understand
14 the complex, and yet I clearly don't. I was
15 surprised, kind of, to come across an
16 announcement that there were over a dozen new
17 facilities added to the list over the last
18 month or so, if I am correct, several of them
19 here in California.

20 It made me realize, if I can't
21 keep track of who potentially is a claimant or
22 what is considered a covered facility, how

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 difficult it would be for many people who are
2 former workers, and particularly people who
3 are not employees of private contractors.

4 So it seems like the work that you
5 are doing with the Joint Task Group is very
6 important for people to understand their
7 eligibility for the program. So that gets at
8 a starting point as background.

9 It looks like Labor is not
10 represented on the Task Group right now. Is
11 that correct?

12 MR. KOTSCH: No, Labor is there.
13 Is it not included on the slide? DEEOIC --
14 that is our division.

15 MEMBER RICHARDSON: Oh, I don't
16 mean Department of Labor. I mean organized
17 labor.

18 MR. LEWIS: I would say,
19 indirectly, yes, our Former Worker Programs
20 are involved, depending on what area we are in
21 and what particular Former Worker Program is
22 involved.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER RICHARDSON: I guess I have
2 been -- I have had some conversations lately
3 that have led me to think, although I know
4 there is a lot of effort being done to kind of
5 publicize the program, it still seems that
6 there are lots of opportunities for people not
7 to recognize. I was wondering if there are
8 other thoughts about ways to kind of spur
9 that. That was one question. Does this group
10 have to be -- you know, is there a restriction
11 in some sense on who sits at the table at
12 those kind of --

13 MR. KOTSCH: I have to admit, I am
14 not that familiar with the Task Group as far
15 as its -- I don't know exactly how it is
16 structured. I know it is structured with
17 federal constituents, but I don't know what
18 else it entails as far as who it can include.

19 MEMBER RICHARDSON: Its mission,
20 though, is to -- or you could help me to
21 understand its mission. Is it to kind of
22 stimulate new ideas for how outreach can be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 done most effectively?

2 MR. KOTSCH; Yes, I think that is
3 probably part of it. Part of it was just the
4 coordination effort between the three agencies
5 to make sure that they were somewhat
6 coordinated in their efforts for outreach and,
7 certainly, yes, they would look at that.

8 I know they are always looking for
9 -- again, I am not that intimately familiar
10 with the actual group itself, but I assume
11 they are always looking for ways to get out
12 there, because we know there are some -- I
13 know there were a couple of facilities in New
14 Jersey that were so small, they were literally
15 -- there were just a couple of claimants. It
16 was really hard to just even find anybody else
17 that worked for those old companies that even
18 -- It is just no longer there.

19 MEMBER RICHARDSON: Right.

20 MS. LIN: Can I just ask a
21 question. Dr. Richardson, are you asking for
22 membership to the Joint Outreach Task Force,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 individuals or entity outside of the federal
2 government?

3 MEMBER RICHARDSON: Yes. One of
4 the questions was: Was there representation
5 there? Might they bring ideas, contacts,
6 resources for other ways of identifying people
7 who might not be -- I mean, it wouldn't be
8 obvious to me right now sitting at the table
9 what those would be, but --

10 MS. LIN: As of now, this is an
11 interagency task force. If we are inviting
12 outside entity outside the federal government,
13 they change the characteristic of that group.
14 It might actually be -- it might actually
15 become a federal advisory committee.

16 There is actually different
17 ramifications that might involve or implicate.
18 So, obviously, it is something that we
19 consider, but we will definitely take it.

20 MEMBER RICHARDSON: Clearly, I
21 don't appreciate how bizarre the workings of
22 the government are that you can't elicit

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 information.

2 CHAIRMAN MELIUS: Henry?

3 MEMBER ANDERSON: I was interested
4 in there's over 6,200 where the medical claim
5 could be substantiated. What are the problems
6 there?

7 MR. KOTSCH: I think the general
8 issues there are just that there is not
9 specific medical information, a pathology
10 report or a medical report or just anything.
11 There is just the claim of a particular
12 illness or cancer, but it is not substantiated
13 in any particular way.

14 We have fairly generous
15 requirements as far as what we require for
16 medical information, but some of the main
17 things are pathology reports for the cancers
18 and things like that. We will take other
19 things in lieu of that as far as medical.

20 MEMBER ANDERSON; It just seemed
21 to be a substantial number.

22 MR. KOTSCH: Well, considering the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 small number, it is still significant.
2 Likewise, we sometimes have an issue with
3 employment, too. They may just allege
4 employment but nothing else.

5 CHAIRMAN MELIUS: Just a lot of
6 medical records get destroyed now, with
7 hospital mergers and medical offices going
8 out, and some of these cases go back so far.

9 MR. KOTSCH: Yes. The
10 requirements for records retention, obviously,
11 varies by state, and it is not very lengthy,
12 and I think sometimes it is only like 20 or 30
13 years.

14 MEMBER ANDERSON: I know the
15 medical record. Just knowing pathologists,
16 they never throw anything away. So the
17 written report may be gone, but if you know
18 where it was -- I mean, how one goes about
19 searching for those records. Frequently, the
20 slides of the tissues, if such were ever made
21 -- some people will die or, if you don't
22 accept the death certificate as saying, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 know, it is the cancer.

2 I am just curious as to -- I can
3 see the frustration in the families, that you
4 know what Dad died of or where he was
5 hospitalized, and all of a sudden you can't
6 get it.

7 CHAIRMAN MELIUS: And the hospital
8 is gone. That is probably the -- I think you
9 are right. If the hospital is intact, so to
10 speak, then there is usually some record
11 someplace that you can track down, but it is
12 when they have disappeared that it is hard, or
13 when it is, you know, so and so went in the
14 hospital, and they thought -- they weren't
15 sure what was wrong, might have been cancer,
16 then died. Yes. It is difficult for a
17 survivor who may live on the other side of the
18 country and so forth. It is really -- it can
19 be quite difficult.

20 Paul?

21 MEMBER ZIEMER: Jeff, on the CLL
22 cases now that will be reopened, my question

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is: does the Department of Labor notify those
2 claimants that their case is going to be
3 reopened and thereby raise their hopes of a
4 settlement or do you go ahead and relook at it
5 and, if it is positive, let them know? What
6 is the process?

7 MR. KOTSCH: By the actual process
8 of reopening, they have to be notified. They
9 get a formal piece of paper that says, you
10 know, Department of Labor is reopening your
11 claim, and then whatever we are doing. In
12 this case, we are --

13 MEMBER ZIEMER: And you explain
14 why.

15 MR. KOTSCH: Yes.

16 MEMBER ZIEMER: Thank you.

17 MR. KOTSCH: Anytime we reopen a
18 case, whether it is for a rework or something
19 else, if it has to be reopened, there is
20 obviously in the claimant's interest whether -
21 - I don't know. We never know the outcome of
22 those things until they are done. I can't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 remember if there is language in there as far
2 as -- there may not be. I am not sure, but as
3 far as what they -- I mean, we are not going
4 to presuppose what the outcome is.

5 MEMBER ZIEMER: Thank you. Now
6 one unrelated question. The Worker Outreach
7 Programs -- you did one at GE Evandale in
8 Cincinnati, I noticed, a site for which we had
9 concerns about the size of the claimant
10 population. Can you give us some idea or do
11 you know what kind of turnout there was for
12 that worker outreach meeting?

13 MR. KOTSCH: I don't know. Was
14 there anybody from -- Stu may have been there,
15 or somebody there.

16 MR. HINNEFELD: I happened to
17 attend those, since they were in town. So I
18 am speaking from memory now. There were two
19 sessions. There was a difference between the
20 two. In fact, I think at one -- I think that
21 was the place where nobody showed up for the
22 second one. It was just like one person, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 was mainly interested in her particular claim,
2 and so she was dealt with by other people. I
3 don't think the second session even occurred.

4 The first one, I want to say, is
5 30 to 50 people were in the room for that one,
6 if I remember correctly.

7 MEMBER ZIEMER: It is kind of an
8 interesting phenomenon, to follow up on Dr.
9 Richardson's comment. Here is a site where
10 you had a particular effort, I guess, to
11 announce the program and the availability of
12 compensation, and you got a lot of no-shows,
13 it sounds like, because I think we estimated
14 that that was a pretty large Work Group that
15 could be impacted.

16 MR. HINNEFELD: Certainly, a large
17 employer, a large set of employees. I don't
18 know, other than to say that the advertisement
19 was about this particular work. Air Force
20 Plant 36, whatever it was called, and people
21 may have read the -- I don't know how the
22 publication went.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MEMBER ZIEMER: Well, see, that
2 makes me wonder how -- are we doing something
3 like -- a lot of legal notices are just that.
4 They meet legal requirements, but the people
5 you want to reach don't see them.

6 MR. HINNEFELD: I really don't
7 know. We go attend these -- or this was an
8 SEC essentially announcement.

9 MEMBER ZIEMER: But that would be
10 an issue for the Joint Task Group, that kind
11 of thing, to discuss as to how you go about
12 that.

13 MR. LEWIS: And I think there is a
14 little bit of a difference for the outreach
15 meetings on how we are able to connect with
16 these folks, because with a place like GE
17 Evandale, when it is a private company, it was
18 more on the AWE side, we don't have the list;
19 whereas, with -- you know, if at all possible,
20 and I was going to mention, at one of the
21 Joint Outreach Task Group meetings we are
22 working on for this coming year is for this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 area, for the Bay area, and what we are
2 working on right now is getting updated roster
3 lists from the sites, SLAC, Berkeley, and
4 Livermore.

5 So we are hoping to get -- we get
6 big lists of former workers. We try to mail
7 to as many -- You know, we get the ZIP Codes
8 and try to mail to as many local folks as we
9 can. So that tends to generate a bigger
10 attendance; whereas, if we don't have those
11 lists and have to go with an ad in the paper,
12 a press release, something like that, that
13 depends on what gets picked up, when it comes
14 out, who is paying attention that day, how big
15 the market is, all those kind of things.

16 We try to -- in the Joint Outreach
17 Task Group meetings, we try to tailor our
18 outreach given those realities to try to get
19 as many people there as many people there as
20 possible.

21 Now with the SEC meetings, you
22 have to do it for that site, and you are only

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 able to kind of come up with whatever tools we
2 have. I don't want to speak for DOL, of
3 course, but there is a bit of a difference,
4 depending on the site.

5 MR. KOTSCH: Yes, that is a
6 general summary. If we have union contacts at
7 a particular site, we will use them. I know
8 our outreach people try to take any avenue
9 that they are aware of as far as getting the
10 word out.

11 CHAIRMAN MELIUS: Wanda?

12 MEMBER MUNN: The discussion
13 surprises me a little bit, probably because it
14 is contrary to my personal observation and
15 personal experience. I have not encountered
16 any of these outreach activities that have not
17 been, certainly, heavily involved in the
18 notification process with organized labor, and
19 the advertisements that I have seen have not
20 been in legal sections at all. The
21 advertisements that I have seen in a number of
22 newspapers across the United States are always

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 very colorful, very clear, and occupy a pretty
2 good space. They are not just a tiny little
3 ad. They are good-sized ads, and they occur
4 more than once in localized newspapers.

5 So I haven't attended very many of
6 those outreach meetings, but many that I have
7 been aware of were held in union halls, and
8 many informational meetings were arranged by
9 organized labor, and then operated as sort of
10 a joint activity with DOL.

11 So it surprises me that this
12 discussion occurs because, for from some
13 perspectives, the heaviest of all
14 representation at these meetings is a union
15 person, and a couple that I have attended have
16 been essentially led jointly by DOL people and
17 by organized labor people.

18 So I guess I can understand your
19 concern, David, but I just felt it was
20 necessary to comment that I cannot imagine,
21 for example, in a place like GE that the
22 organization was not involved in distributing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 information. It just doesn't jibe with the
2 experience that has been observed elsewhere.

3 CHAIRMAN MELIUS: Brad?

4 MEMBER CLAWSON: Well, after
5 listening to Wanda's comment, I just wanted to
6 make sure. The Department of Labor, I am
7 sure, sees this, too, that in many cases, many
8 places it is the DOL outreach person or -- you
9 know, you can go to different cities, and some
10 of them, there are so many they are really
11 advertised very well, and other ones it isn't.

12 It is a lot the point of contact and so
13 forth.

14 One of the sites is Pantex where
15 you have people that are really involved and
16 have a good communication, and this is, I
17 think, what Mr. Richardson was referring to,
18 the communication between the organized labors
19 that are there in some places are different
20 than in others.

21 In my personal opinion of going to
22 several of them, some of them were really well

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 done, like you said, but other ones, the
2 information didn't get out there. It wasn't
3 as well informed as other ones. They are
4 polar opposites in some places on it.

5 This is where, I think, Mr.
6 Richardson was talking about using organized
7 labor, but a lot of these sites didn't. Their
8 organized labor department has gone away. It
9 is basically falling onto retired people, and
10 many of those do wonderful, wonderful jobs and
11 they have a good communication, but also the
12 outreach people that are involved in it is a
13 big tool that sometimes really works well and
14 sometimes doesn't.

15 CHAIRMAN MELIUS: Jeff, I have one
16 question. I think that, for the people with
17 claimants with CLL you have in the system, you
18 can notify them, but is there going to be an
19 effort this year to try to do a more general
20 outreach for those that may have gone to one
21 of these public meetings or talked to people
22 in your centers or whatever about filing a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 claim and been told, well, no, you are not
2 eligible, CLL isn't covered.

3 I think it would be helpful if
4 there was some effort to do that. I think
5 that may be one of the problems also, I think,
6 with some of these sites. People don't think
7 that they are covered or they have been
8 informed they are not covered or there is not
9 -- or whatever. Something had not happened at
10 that site yet, or whatever, only covered
11 certain people.

12 These are the people that are hard
13 to reach. The ones that have filed claims,
14 you can go back to, and that is good. But I
15 think some emphasis this year on at least
16 clarifying for the people that may have not
17 thought they were eligible and are now
18 eligible.

19 MR. KOTSCH: That is a good point,
20 and I think that will done. I am not sure of
21 the form, but you are right. After 10 years
22 of saying you are not covered, you are right,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we need to inform them that now you are, there
2 has been a change.

3 CHAIRMAN MELIUS: David?

4 MEMBER RICHARDSON: Just to wrap
5 this up, and I don't do this as a labor --
6 organized labor versus other people, balance
7 or anything. I was coming at this from the
8 perspective of imagining a disease which
9 arises in a population, and what we are seeing
10 are a subset of those which become claims, and
11 the government has kind of offered a service
12 program to all those people who are affected
13 by a given disease, and we want to think about
14 how best to serve all those people who have
15 experienced this disease.

16 What is driving some people to end
17 up in the pool which are those which have
18 filed claims versus, which I think we would
19 all acknowledge, there are other instances of
20 disease which have occurred where those people
21 have not filed claims.

22 There, obviously, are a number of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 barriers somehow to people getting entered
2 into a government system which is there to
3 assist them. So this may be communication.
4 It may be a changing message. It may be lots
5 of different social, psychosocial processes
6 which leads some people to end up in a program
7 and some people not.

8 That is what I was trying to think
9 about. What are those? How do you lower
10 those barriers so that people understand the
11 resources available to them and are well
12 served by the program?

13 I don't know what that is. One of
14 my suggestions was to involve more of the
15 people who are potential claimants and get
16 their perspective on what they perceive as the
17 barriers to entering into the program, and
18 there may be other ideas and expertise about
19 how to do that, but all I'm saying is I think
20 that is a very important issue.

21 I have some suspicion that there
22 remain obstacles to people entering into the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 program and finding the assistance that they
2 are entitled to. So I would just like to keep
3 it on the burner.

4 CHAIRMAN MELIUS: Thanks, Dave.
5 Any other comments or questions? If not,
6 thank you, Jeff, for the update.

7 MR. KOTSCH: Thank you.

8 CHAIRMAN MELIUS: Our next update
9 is from the, last but not least, Department of
10 Energy.

11 MR. LEWIS: This took a little
12 while to load earlier. I don't really know
13 why, but I did want to address a couple of
14 things while this is loading that I want to
15 address.

16 I know you mentioned briefly, Dr.
17 Melius, LANL, and I have a slide later on, and
18 I would be glad to talk about that and answer
19 questions.

20 The other thing you mentioned, I
21 think it showed something like 40-something of
22 the late claims, and as Stu said, those kind

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of come and go, depending on circumstances,
2 and usually they are associated with a few
3 specific sites. I am going to check with
4 NIOSH afterward and see exactly where those
5 are, but the one site that immediately popped
6 into my head is Sandia.

7 I think you saw in Jeff's slide,
8 Sandia had something like 139, and they were
9 the highest number of recently received claims
10 at DOL and, typically, the other three on that
11 list are kind of always there. I think it was
12 Savannah River, Y-12, and maybe Hanford.
13 Those three are -- they are always in the top
14 five in terms of number of claims. Sandia
15 typically is not.

16 So 139 claims for Sandia is
17 probably five to six times what they typically
18 get, and in addition, they are also still
19 supporting ongoing -- even though that initial
20 period of SEC was granted, there has still
21 been ongoing research into the remainder of
22 the period.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So they are kind of getting hit
2 both with additional claims as well as this
3 ongoing research. So I think that they have
4 staffed up or brought in some additional kind
5 of temporary people to help handle that, but
6 that is the one claimant.

7 I would also believe -- and I
8 don't know how it factors in number-wise, but
9 similarly, Kansas City got -- over the last
10 year they got probably three to four times the
11 claims that they typically get. So I think
12 that they had also hired an additional person
13 or brought on kind of a part-time staffer to
14 help eliminate the backlog.

15 So those are the two sites that
16 pop into my head, and a lot of times it is
17 because of something like that, either --
18 well, unfortunately, sometimes it can be due
19 to funding. I don't believe we have any of
20 that even through the CR this year, but the
21 other major driver on that is the SECs and
22 large influx of claims.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN MELIUS: I think that
2 Kansas City was an outreach. Wasn't that on
3 Jeff's list, I thought?

4 MR. LEWIS: Yes.

5 CHAIRMAN MELIUS: They probably do
6 that. Actually, I think Sam Glover was out at
7 Sandia handing out claim forms as he wandered
8 around down there or something.

9 MR. LEWIS: Yes.

10 CHAIRMAN MELIUS: It accounts for
11 about 120 of the 139 or something.

12 MR. LEWIS: Then just one more
13 thing, before I get started, as far as the
14 outreach. Maybe I should have been stronger,
15 but with the former worker programs,
16 typically, at least for the Joint Outreach
17 Task Group -- I know both NIOSH and DOL also
18 do their own reach, but for the Joint Outreach
19 Task Group, we have, I think, monthly or every
20 couple of months we have conference calls with
21 the Joint Outreach Task Group, and on almost
22 every one of those calls, there is typically a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 representative from USW, United Steelworkers,
2 as well as the building trades, CPWR, and I
3 think occasionally some others as well, but I
4 know at least those two are on almost every
5 single call, and then attend the meetings that
6 have to do with their specific programs. They
7 don't necessarily attend all of them, but
8 usually one of those two is typically there.

9 All right. I will go ahead with
10 my slide show. I am Greg Lewis. I am the
11 Director of the Office of Worker Screening and
12 Compensation Support at the Department of
13 Energy.

14 Our core mandate is to work on
15 behalf of program claimants to ensure that all
16 available worker and facility records are
17 provided to DOL, NIOSH and the Advisory Board.

18 We have three main
19 responsibilities. We respond to individual
20 requests for information from DOL and NIOSH
21 for employment verification, dose
22 reconstruction and other exposure records.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 The second thing is to provide support and
2 assistance on large-scale records research
3 projects like the NIOSH SEC projects, TBD
4 updates, the Department of Labor site exposure
5 matrix, things like that.

6 Then the third, which is somewhat
7 smaller but equally important, is to conduct
8 research on issues related to their covered
9 facility designation. So the puncture sites,
10 the uranium mining and milling sites that were
11 just added, we were involved with that review,
12 and I think are still providing some
13 background information on those sites.

14 Before I talk about each of those
15 three responsibilities in more detail, I just
16 want to kind of talk about how we do business
17 at DOE with respect to the EEOICPA program.
18 Everything in terms of providing records and
19 information runs through our sites, and in
20 each one of these sites we have a designated
21 point of contact for the EEOICPA program, and
22 these PoCs are vital for our program. They

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 are the backbone of our program, and they are
2 really what allows us to get you all the
3 information you need.

4 So these PoCs conduct the research
5 activities. They set up visits, interviews,
6 make sure that the clearances and access are
7 there to get on site. They work to identify
8 the right subject matter experts, and also
9 kind of manage the day to day process of
10 responding to these claims in a timely
11 fashion.

12 For the individual records
13 requests, we do three types of requests, again
14 the employment verifications, the dose records
15 or dose requests for NIOSH, and what we call a
16 document acquisition request or DAR, which is
17 a request from DOL for basically all other
18 exposure information, medical records,
19 industrial hygiene, anything related to
20 exposures that an individual might have
21 experienced on site.

22 Then if you look at the numbers,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we have actually recently revised our numbers.

2 We went back. So I think, if you look at
3 previous presentations that I have done, the
4 FY 2011 number and even 2010 here are both
5 lower than what we have said in the past. I
6 think we were up around 17 or 18 in the past.

7 What we realize -- we were going
8 back through our numbers and realized that at
9 the Oak Ridge facility -- and I guess my next
10 slides speaks to this as well, but our numbers
11 typically don't match DOL and NIOSH, because
12 often workers worked at multiple sites. They
13 might have gone to visit sites, workers, for
14 example, in this area at Livermore, many of
15 which would have gone to the Nevada Test Site
16 for a period of time while they were working
17 on a particular shot, things like that.

18 So for one individual, we may have
19 to go to two or three sites to gather the
20 requests. So we count that as two or three
21 separate requests, because the sites has to
22 pull the information.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Well, at Oak Ridge, what we call
2 Oak Ridge really consisted of five sites, the
3 three gaseous diffusion plants, and then Y-12
4 and Oak Ridge National Lab. So if someone
5 worked at all five of those, it would count as
6 five requests.

7 Well, we were also counting --
8 there was a separate records center there in
9 the Oak Ridge Operations Office. So for many
10 individuals, especially for those that worked
11 in the older period of time, the request will
12 go to that Oak Ridge Records Center.

13 So I didn't realize it at first,
14 but we were counting that as a separate
15 request, because it was going to a separate
16 place. But when we looked at that type of
17 request, it was in its own site, and it was
18 also a much lower level of effort. So we kind
19 of felt like we were double-counting.

20 So we went back and took that out
21 of what we counted. Actually, it makes our
22 numbers -- it makes a little bit more sense,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 actually, because when you look at it, over
2 the past two years we have been very close. I
3 didn't put the exact number. We are still
4 finishing this data scrub, but it is very
5 close to 16,000 per year, and then this year
6 we are still on target for about 16,000. So
7 the numbers have actually been very consistent
8 over the last couple of years.

9 Then I mentioned this before, but
10 for multiple sites, we -- For one individual,
11 we may go to multiple sites, and then within a
12 site we often go to multiple divisions or
13 areas within the site, and resulting in
14 records packages that can be hundreds of pages
15 long for one individual. So it can be a
16 complicated process out of these sites.

17 The second main function that we
18 have at the DOE is to support the large-scale
19 records research projects. These are driven
20 by NIOSH and DOL. So it does keep us on our
21 toes, trying to react and make sure that, when
22 these projects start or as they come up, that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we make sure that the site has the resources
2 and manpower in place and that there is
3 funding that enables them to support these
4 efforts.

5 These projects can take years and
6 cost hundreds of thousands of dollars. So it
7 is sometimes difficult logistically to
8 support.

9 We also do have to review -- not
10 everything, but at certain sites and for
11 certain records, we do have to review
12 documents for classification. This is also a
13 time-consuming process. We have reviewed
14 millions of pages so far, and we do everything
15 we can to get these back in a timely manner.

16 This is a list of some of the
17 projects that we have been supporting
18 recently. There is more than that, but I just
19 kind of picked six of the ones that we have
20 been recently working on.

21 At Sandia, as I had mentioned
22 earlier, in addition to getting a large influx

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of claims, we also supported five site visits
2 in 2011 for records review, worker interviews
3 and data capture.

4 While they are working on the
5 Sandia SEC, there has also been request for
6 Ross Aviation information and also for Medina
7 and Clarksville records, because Sandia, along
8 with Pantex, ended up with the majority of the
9 Medina and Clarksville information, once those
10 two facilities were closed.

11 We also just recently held a
12 meeting or facilitated a meeting at DOE
13 Headquarters in Germantown to look into the
14 Sandia documents, as well as a few other
15 subjects.

16 So Los Alamos. I know that a
17 question had been raised earlier with Los
18 Alamos, and recently, just in the last month,
19 I have been fairly involved working with both
20 the site as well as NIOSH and their
21 contractor, trying to resolve issues as far as
22 getting the right information and targeting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the right information.

2 I will say, it has been somewhat
3 slow, but being involved in the process, LANL
4 has been responsive. It hasn't been an issue
5 where they are not responding or refusing to
6 respond. It has been an issue of a lot of
7 back and forth trying to identify the right
8 information.

9 There had been requests made.
10 Then the site came back and said, well, this
11 is too broad; we don't know what they are
12 asking for, we can't provide this. So then
13 NIOSH or the contractor would either have to
14 make a more targeted request or talk to the
15 site to make sure to explain exactly what they
16 were looking for more clearly, so the site
17 could actually pull the records and facilitate
18 the visit.

19 I am happy to say that, as of
20 yesterday, there are three researchers on site
21 down at Los Alamos reviewing documents, and I
22 did exchange emails with Cheryl Kirkwood at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 ORAU just today, and she said that it does
2 seem like they are getting what they needed,
3 and the documents that they wanted to see are
4 there.

5 So I believe, hopefully, at the
6 end of the week, it will have been a
7 successful visit, and I am hoping that that
8 will resolve most of the concern with Los
9 Alamos, but if that is not the case, there is
10 still more work to be done, I would be glad to
11 get that going as soon as possible.

12 CHAIRMAN MELIUS: Because I think,
13 as you know, we have our next meeting -- in-
14 person meeting of the Board out that way in
15 June, and we have an active SEC evaluation out
16 there, and we now have congressional
17 representatives inquiring what is taking so
18 long.

19 MR. LEWIS: Like I said, I
20 believe, based on my conversations with the
21 NIOSH team lead, if they are able to get what
22 they think they can get during this visit,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 they think that that is going to be the last
2 visit that they need to pull together the
3 report. Of course, these things are always
4 kind of in flux. Depending on what they find
5 this week, they may need to pull that string a
6 little bit further, but yes, we will do
7 everything we can to make sure that they have
8 the information by the next -- well in advance
9 of the next meeting.

10 CHAIRMAN MELIUS: No, we
11 appreciate that, and we will keep after NIOSH
12 and whoever we need to keep after.

13 MR. LEWIS: Then just the last one
14 that I was going to talk about is the Pinellas
15 Plant. At the last Advisory Board meeting in
16 Tampa -- I think that was in December -- there
17 had been a request to facilitate some
18 interviews with former Pinellas workers.

19 We really tried to get that -- to
20 secure a venue to do that in December. Again,
21 because of the nature of these interviews, it
22 needed to be a classified location. Because

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the site is closed, DOE doesn't have a
2 suitable location in the area.

3 So I think, initially, we were
4 working with the -- there is a big military
5 base near there, a number of commands, and
6 that had been -- we just weren't able to do
7 that. There were a number of issues in terms
8 of getting the right venue, and also getting
9 access to the base was very difficult.

10 So after that meeting, we went
11 back and were able to work with the FBI and
12 get a venue, and the interview was held in
13 January. So I think that we can cross that
14 one off the list.

15 Then as far as document reviews,
16 again with --

17 CHAIRMAN MELIUS: Phil, do you
18 want to comment on that? I don't mean to
19 interrupt you, but it is easier if we do --

20 MR. LEWIS: Yes, go right ahead.

21 MEMBER SCHOFIELD: On those
22 Pinellas interviews, I want to compliment DOE.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 You guys really pulled together a good job,
2 and it really was a help to us, and we were
3 able to get a lot done, and I appreciate it.

4 MR. LEWIS: Glad we were able to
5 support. I wish we could have done it for
6 December, but we did the best we could.

7 CHAIRMAN MELIUS: Well, that was
8 hard, and short notice, especially when the
9 facility is not there. I don't know how you
10 got people to go to the FBI office.

11 MR. LEWIS: Quickly, with document
12 reviews: many of the final documents that go
13 up on the web or that are published in a
14 public venue, we review it at DOE For Official
15 Use Only in classifications, data-sensitivity
16 concerns.

17 We do this -- our security plan is
18 really what provides us the -- it sets forth
19 the things that we follow, so that is at the
20 link there, and it is on our website. Then
21 since the last Board meeting in December, 34
22 documents have been submitted to DOE

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Headquarters for review. The average
2 turnaround time was eight working days, and I
3 think in certain cases we are able to do it
4 faster when necessary.

5 Then the third main responsibility
6 the DOE has under the Act is to research and
7 maintain the covered facilities database, of
8 course, along with DOL and NIOSH. We all put
9 together the information we have and, when we
10 realize that there may be an issue with
11 facility coverage, we attempt to make that as
12 accurate as possible.

13 Then we are always working on
14 initiatives to identify additional records
15 collections or records that either may not be
16 organized in a fashion where we can quickly
17 get them to respond to requests or we may not
18 have realized that they were responsive to
19 these type of EEOICPA records requests.

20 So one example right now is we are
21 working with our Brookhaven National Lab on
22 developing a more comprehensive list of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 subcontractor companies. We identified some -
2 - I believe these are engineering project
3 files type of records, and we are going to be
4 going through those project files to identify
5 the companies, the subcontractor companies,
6 that were listed as working on those projects,
7 and we are going to create a list.

8 So again, it won't identify
9 subcontractor employees, but at least we will
10 identify the additional subcontractor
11 companies that were on site.

12 Then we have also recently
13 completed our third review of the Department
14 of Labor Site Exposure Matrix database, or
15 matrices -- excuse me. Originally, there was
16 both an internal version of the SEM at DOL and
17 then a public version that had more limited
18 information.

19 In 2008, DOL came to us and asked
20 us to review the full version of the SEM so
21 they could post it on their website. The
22 initial effort took about a year, and since

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 then we have done two follow-on efforts for
2 additional information that they wanted to add
3 to the database, and the most recent review
4 was completed about a month ago, and the new
5 version is up on DOL's website.

6 Then I just wanted to talk about
7 the Former Worker Medical Screening Program,
8 which is the other program that is managed out
9 of my office. The mission of the Former
10 Worker Program is to identify and notify
11 former workers at risk for occupational
12 disease and offer them medical screening that
13 can lead to treatment.

14 The program serves all former
15 workers at all DOE sites. We work with a
16 network of local clinics to make sure that the
17 exam can be made available close to the
18 individual's residence. I think that we have
19 conducted screenings, I believe, in all 50
20 states and, I think, Canada as well.

21 The local screening programs for
22 Livermore, Berkeley, and Sandia-Livermore --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the principal investigator is Dr. Lewis
2 Pepper, and he is with Queens College, and I
3 have provided a number there, and it is also
4 on our handout in back.

5 Then to finish, I wanted to talk
6 about a recent initiative we have just
7 completed. I think you all should have a
8 wallet-size or slightly bigger than wallet-
9 size card that we gave you all.

10 This is a project related to
11 beryllium and chronic beryllium disease.
12 About a year, some of our stakeholders came to
13 us and felt like it would be helpful to have
14 more information about beryllium and chronic
15 beryllium disease and sensitivity, both for
16 workers and for their physicians.

17 So just to give a little bit of
18 background, beryllium is a metal that is used
19 in a number of industries, defense, aerospace,
20 medical, obviously in the weapons complex as
21 well. It has exceptional strength and
22 stability under high heat.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 It also has some unique hazards.
2 So it has been recognized as posing an
3 occupational hazard for quite some time, and
4 that it does result in beryllium sensitivity,
5 chronic beryllium disease and lung cancer.

6 So again, we wanted to put
7 together -- initially, we were working on just
8 putting together a card that an individual
9 could have that both would talk about some of
10 the symptoms they might experience. So if
11 they worked with beryllium and they have a
12 cough or there is some kind of issue that they
13 have been having, and they are wondering maybe
14 this is connected with beryllium, this might
15 give them some idea of whether it is related
16 to beryllium.

17 Also, if they were diagnosed with
18 beryllium sensitivity and were having some
19 additional issues, this might give them an
20 idea of whether they should go back and get
21 tested again or maybe that their disease has
22 moved to a chronic beryllium disease. Then

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 also, for those with chronic beryllium
2 disease, it provides some information on some
3 of the consequential conditions and illnesses
4 that might result from their CBD or from the
5 treatment of CBD, which is often steroids.

6 So for this process, we asked six
7 physicians if they would assist us, provide
8 some guidance and background information. The
9 six physicians are Drs. John Balmes, Laurence
10 Fuortes, John McInerney, Lisa Maier, Lee
11 Newman, and Milton Rossman. We believe they
12 are all renowned experts in the field and very
13 qualified and capable.

14 They also provided us guidance.
15 It was individual guidance. This wasn't a
16 panel or they didn't come to a consensus.
17 There was no voting on what to include. We
18 did want to make sure it was just to assist
19 and guide us and provide some information.

20 They reviewed available scientific
21 literature and tried to put together some
22 lists of symptoms of CBD, consequential

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 conditions of CBD and provide the information
2 in a clear and concise format, something that
3 could be accessed and understood by workers,
4 but it would also be valuable to their
5 physicians; because again, one of the key --

6 I probably should have mentioned
7 this to start. One of the key reasons that we
8 put this together is we have been hearing that
9 many of the physicians, even in heavily DOE
10 areas where there might be more workers
11 involved with beryllium than others, but
12 especially in areas with no DOE facility, we
13 have heard that many workers will go in and
14 talk to their physician about beryllium, and
15 their physician never heard of beryllium, have
16 no idea what it is, what it can do, what is
17 CBD.

18 So we wanted to be able to provide
19 workers with this card so they could bring
20 that card to their physician, and their
21 physician would kind of get that basic
22 information and have a good idea of where they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 might go to get more information because,
2 again, with this program a proper diagnosis is
3 key for the Department of Labor to be able to
4 adjudicate these claims.

5 So the end result is not only the
6 card that you have sitting in front of you,
7 but also a website. Again, our stakeholders
8 approached us about putting together a card,
9 but when we started working with these
10 physicians and gathering information, to put
11 all that on a card, it would have been
12 microfilm.

13 So what we ended up doing is
14 creating a website to go along with the card,
15 and I think there is a link to the website on
16 that card, although it is not live right now.

17 It should be live within the week. We are
18 making our final preparations, and it is going
19 to be up on our website.

20 So again, this doesn't directly
21 have impact to this Board or to dose
22 reconstruction, but we know many of you are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 involved out there with workers and are
2 involved with the EEOICPA program, and we
3 think this will be a great resource for
4 workers and their physicians. So if you do
5 check it out in about a week, the website, if
6 you have any feedback for us or suggestions,
7 we would be glad to hear them.

8 There is a copy of the card that
9 you have sitting in front of you. And that is
10 it.

11 CHAIRMAN MELIUS: Dave, go ahead.

12 MEMBER RICHARDSON: I wanted to
13 start with the card and beryllium issue, which
14 I think is great and is really useful. I had
15 one question about the list of consequential
16 illnesses that may result from chronic
17 beryllium disease. I guess I would pose it as
18 a question and whether there was discussion
19 about it.

20 Lung cancer is not on there, and
21 yet at least some organizations consider
22 beryllium a carcinogen. I don't know if you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 consider that beryllium is an established risk
2 factor for beryllium diseases, and beryllium
3 is an established risk factor for certain
4 cancers. I guess the question is, did you
5 think about lung cancer as being something
6 which a physician might want to consider among
7 the consequences?

8 MR. LEWIS: I am going to turn it
9 over to Isaf Al-Nabulsi. She is also of my
10 office, and she really is the one who
11 captained this project.

12 DR. AL-NABULSI: We didn't include
13 it in the card, but it is in our website, and
14 we all know that lung cancer from beryllium
15 exposure depends on the duration of exposure,
16 as well as level of exposure. If we point it
17 out in the card, it will be misleading. So we
18 have it in our website.

19 MEMBER LOCKEY: You almost have to
20 have the fibrosis to be at risk.

21 MEMBER RICHARDSON: Thanks. Could
22 I ask a different question?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN MELIUS: Sure.

2 MEMBER RICHARDSON: This goes to
3 the very, very start of the material that you
4 are presenting. DOE has got this huge task in
5 front of them of responding to requests which,
6 I imagine, becomes tiresome, to provide
7 information, and you describe that -- I mean,
8 this is a huge amount of work that you are
9 doing, and it is going to continue for quite a
10 period of time.

11 You have kind of described the
12 reactive component of what your office is
13 doing, how you are handling these requests. I
14 am wondering if there is a proactive or kind
15 of strategic planning aspect of this which we
16 have not been kind of exposed to, which I
17 could imagine there might be, when you start
18 to think about, well, if you have to keep
19 doing this, are there ways that it could be
20 done simpler.

21 One of the things that I have been
22 thinking about is, as we have gone to these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sites, some of the sites, I think, have
2 undertaken incredible efforts, like INEL, to
3 really kind of aggregate their information,
4 index it, and make it much more usable.

5 DOE in some situations has kind of
6 created the REMS system, which is useful. But
7 it all looks, to me, kind of like a
8 decentralized or federal sort of system in
9 which DOE has responsibility yet there is kind
10 of this kind of heterogeneity between the
11 sites and what they are putting in, the
12 completeness of it, the time periods that it
13 is covering.

14 We are going to be talking about
15 Sandia, which seems to me one of the extremes
16 where right now NIOSH -- if I am understanding
17 this, there is records in caves which they
18 can't get, which is the opposite end of the
19 spectrum from this. Is there a strategic plan
20 for it about some way of you beginning to
21 centralize more of the information to make
22 these responses easier?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. LEWIS: That is a big
2 question. That encompasses a lot, but I will
3 do my best to answer it. I would say, to some
4 extent, yes and no. We are always doing
5 things to try to make the process more
6 efficient, to improve the records collections
7 when we can.

8 I had mention that Brookhaven
9 example. That is a very small one, but we try
10 to -- I have gone out to the sites numerous
11 times over the years trying to get ideas. If
12 there is some investment we can put in that
13 will pay off in a number of claims down the
14 road, we have tried to do that wherever
15 possible. So efforts like scanning or
16 digitization or indexing records.

17 We try to do a lot of that out at
18 the sites. You are correct. There is a
19 tremendous of heterogeneity within the sites,
20 and that is kind of by design. That, I think,
21 could be said about anything within DOE
22 because of the nature of the M&O contracts and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the different sites. There's different
2 contracts. There's different
3 responsibilities. So it is very difficult to
4 make one uniform way of doing things
5 throughout the sites.

6 There is also a tremendous
7 difference in the records at the sites, both
8 the records management throughout the years
9 and what was kept, so to some extent were -- I
10 always say, we do the best we can to find a
11 record, if it still exists at the site. If it
12 is not there, we are not going to be able to
13 dig it up now, but we do the best we can to
14 find the records that still exist.

15 Having said that, we also -- my
16 office doesn't manage records throughout the
17 complex. So any sort of effort to centralize
18 all the records or something, that would fall
19 within DOE records management, and I don't
20 know that there is a tremendous interest in
21 centralizing the records, because the sites
22 each have their own responsibilities.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Again, we try to make it --

2 MEMBER RICHARDSON: To the extent
3 that that is true, it means that, for the
4 foreseeable future, you are going to go on as
5 you are going on

6 MR. LEWIS: Well, yes, and I think
7 whether or not the records were centralized, I
8 don't think that that would really address --
9 the major problems are sort of the historical,
10 how the records were kept, and again are they
11 paper, boxes of records, were they indexed to
12 put in a database, do we have them? So some
13 sites have better records than others, and
14 those where we have issues with, it is hard to
15 find them or it is hard to -- you know, we
16 don't necessarily have good confidence.

17 We do the best we can. Again, the
18 major options are indexing records or scanning
19 them and putting them into some sort of
20 electronic database. Oftentimes, especially
21 with older records, indexing them is really
22 the way to go.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 When you do the return on
2 investment in terms of putting the time in to
3 scan and make them electronic, you end up
4 being able to access them much quicker, but it
5 is a tremendous cost. Whereas, indexing,
6 instead of accessing them in minutes, it might
7 take you a couple of days, but as long as they
8 are indexed and we can find them, for the
9 purposes of this program, I think it meets the
10 need. So if there are gaps in our records or
11 if there are things that we know there is a
12 set of records out there that could be
13 responsive to this program, yet they are not
14 indexed or they are not in a mode that is
15 accessible, we address those.

16 So at this point, I don't believe
17 there are any obvious records collections that
18 we are aware of that would provide a benefit
19 to this program, to these claimants, that we
20 haven't indexed, if we are aware.

21 Again, it is hard to know. We
22 oftentimes -- we will find collections of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 records where it was labeled in a way that we
2 didn't realize it would be responsive, and
3 then when someone goes in there, they go, oh,
4 look at this, this is a treasure trove of
5 information.

6 When we find stuff like that, we
7 get it right in the system, and then we also,
8 once we are able to index it and get it into
9 our EEOICPA system, we will go back and check
10 versus old claims to make sure that it is not
11 just the claims going forward, and we will
12 provide that information to NIOSH or DOL.
13 They can reopen those claims as they see fit.

14 So we are always working on that.

15 I don't know if that fully answered the
16 question. If you have suggestions or would
17 like to sit down, I would be glad to really
18 get into the details of what we have done and
19 what some of the various sites have.

20 DR. RICHARDSON: My experience has
21 been, with the passage of time, the ability to
22 retrieve information from some types of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 records gets worse and worse. It becomes
2 harder to locate them. They have become
3 shifted off. The quality of the records
4 themselves begins to degrade.

5 So at some point I think it might
6 be worth -- if you imagine that this program
7 is going to go on for two decades, it may be
8 worth thinking about doing something other
9 than trusting kind of in a decentralized
10 manner, who would be the various contractors
11 and changing agencies who bear responsibility
12 for maintenance of the records to do more to
13 preserve them.

14 It is both for this program and it
15 is for --I mean on the individual basis, it
16 makes lots of other things easier. Co-worker
17 models become much easier the more information
18 there is kind of universally that is collected
19 about a site and radiation exposures.

20 MR. LEWIS: I will say, the POCs
21 at our site are really kind of vital in that
22 regard. When you said records degrade, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 think in general that is true of records
2 collections. They kind of move on or you
3 retire them. You dispose of them, things like
4 that. But for EEOICPA purposes, the records
5 that come into the fold under EEOICPA and are
6 used to respond to requests, those are both
7 covered under our epi moratorium -- you know,
8 epidemiological records moratorium that was
9 intended originally for studies, but then has
10 also been used to preserve the EEOICPA
11 records.

12 Then again, as soon as it is in a
13 collection that is used to respond to
14 requests, our POC makes sure that those
15 records are certainly not touched if they are
16 degraded in any way. We have actually had
17 that where the records were kind of falling
18 apart, and in that case we scan. So we will
19 do projects, if necessary, but again records
20 do -- the boxed records, if kept in the right
21 way, will last for quite a long time. Some of
22 them are still going since the --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 MR. RICHARDSON: Things like
2 microfiche -- it is tricky.

3 MR. LEWIS: It is tricky with
4 microfiche. Where we have had a few issues is
5 databases. A lot of the early -- when
6 computerized stuff first started, and
7 databases, I think technology was changing so
8 quickly. It was evolving, and we have run
9 into a couple of cases where we had
10 information on reels or tapes or cartridges or
11 something and they didn't have a reader at the
12 site.

13 I think in at least a few cases we
14 were able to dig one up at some other site --
15 you know, had a reader in the basement. We
16 kind of used our network of EEOICPA and POCs
17 and all their records contacts and were able
18 to find it, but we have had a few where there
19 just wasn't the technology to read that, but
20 microfilm and microfiche -- I have not heard
21 any issues.

22 Most of the time, they will have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 multiple copies. They will have a silver
2 copy, and I'm not sure all the records persons
3 could really get into it, but they will have
4 multiple copies, and a lot of those, they
5 microfilm has then been scanned as well. They
6 may still use the microfilm copy, but
7 sometimes they will scan it in. It doesn't
8 make it any easier to find. You still have to
9 scroll through, but it does preserve it.

10 CHAIRMAN MELIUS: I think Hewlett
11 Packard and other companies made lots of money
12 by changing their formats and back-up systems
13 every year, without any backwards
14 compatibility.

15 If this is a -- I mean it is an
16 issue, I think, that we are sort of
17 encountering, and especially as we start
18 thinking about co-worker models and about more
19 detail and so forth. It sort of does become a
20 limitation, if only a resource limitation of
21 sort of practical what is available
22 limitation. So it might be something that we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 should think about and maybe spend a little
2 bit more time on, if you would be willing,
3 Greg, at one of our next upcoming meetings to
4 talk about and think about.

5 MR. LEWIS: Yes, I think that
6 would be -- and I would probably want to talk
7 before then to get some more details and
8 exactly, really kind of hash out the issue.

9 CHAIRMAN MELIUS: Okay. Good.
10 Thank you. I have one question, which --
11 David piqued my curiosity.

12 The covered facilities database --
13 has that been updated recently? When I go to
14 your website, it is hard to tell.

15 MR. LEWIS: You know, we don't
16 have a last update, some easy way to get to a
17 list of what is updated. That information
18 would be in the Federal Register notice. Our
19 covered facility list is kind of an informal -
20 - it is an easy way to find all the
21 information, but actual -- the law, so to
22 speak, in terms of what is covered is on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Federal Register notice. I think most of
2 those are posted on the DOL website, I
3 believe.

4 CHAIRMAN MELIUS: Interagency
5 confusion -- make us jump from website to
6 website. Okay. I had missed it. When I went
7 to look it up on here on the DOE, I couldn't
8 find it. Okay. Thank you.

9 Any other questions from Board
10 Members?

11 (No response.)

12 CHAIRMAN MELIUS: Okay, thank you
13 very much, Greg.

14 This is a very short and sweet
15 presentation. This is more of a reminder than
16 anything. I went over our transcript from our
17 last meeting and Stu's presentation from the
18 last meeting on the 10-year review priority
19 items that NIOSH is under way to implement.

20 I think what we said -- at least I
21 said at the last meeting was, given between
22 the holidays and the relatively short time

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 between our last Board meeting and this Board
2 meeting and sort of Work Group meetings were
3 set, I didn't think we would have much time in
4 that time period to start to address these,
5 but I do think we have a number of issues from
6 the 10-year review that we ought to be -- the
7 Work Groups ought to be following up on.

8 I think there is timeliness and
9 some other issues for the Worker Outreach Work
10 Group, and I think what I would suggest we do
11 -- and this goes for the other Work Groups
12 involved also -- is that they should at their
13 next scheduled meeting at least put aside some
14 time for some discussion with NIOSH, and to at
15 least figure out the schedule for NIOSH's
16 efforts in the area, and sort of how do they
17 coordinate for review or input from the
18 particular Work Group.

19 So we have some timeliness and
20 outreach efforts for our Worker Outreach Work
21 Group. We have some dose reconstruction
22 issues for the Dose Reconstruction

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Subcommittee that we already talked a little
2 bit about. Some of them are the QA/QC issues,
3 but there are some other issues there. So,
4 Mark, when you meet at the end of March for
5 that Work Group, it would be good.

6 Then the third issue that I had
7 down, the third Work Group, was the SEC
8 Evaluation Work Group, which has to do with
9 the relatively minor problem of what is
10 sufficient accuracy, and how do we deal with
11 that.

12 Then one that I think cuts across
13 a number of -- eventually across a number of
14 Work Groups, which is issues related to co-
15 worker models and so forth, which we sort of
16 left open a little bit, and I think we may
17 have to sort of augment the SEC Evaluation
18 Group, work between the Procedures Work Group
19 and the SEC Evaluation Work Group -- excuse
20 me, the Procedures Subcommittee and the SEC
21 Evaluation Work Group to address that.

22 Some of that, I think, will depend

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 on exactly what NIOSH is doing, since they are
2 actually -- as I recall from the last meeting,
3 the initial effort looking at sort of co-
4 worker issues and so forth, it was going to be
5 focused on the Savannah River Site. Is that
6 still the plan?

7 MR. HINNEFELD: Yes, that is still
8 the plan.

9 CHAIRMAN MELIUS: Okay. So we may
10 sort of figure out who is involved with
11 Savannah River. That is going to be the
12 example, bringing in people from there. But
13 again, I think, between now and our Board work
14 call in April or our next meeting in June, the
15 Work Groups involved could meet and at least
16 get a schedule and a sense from Stu and NIOSH
17 what their follow-up plans are, what the
18 schedule will be for producing some of the
19 products and reports that they've talked
20 about. I think then we can be able to have a
21 better idea of how to work with NIOSH on those
22 10-year implementation items.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Then I think we will plan for each
2 of our meetings coming up at least for the
3 full Board to get a report on these efforts,
4 and I think a number, if not all, of these
5 issues should come back to the full Board for
6 discussion, since these are items that will
7 really impact the overall program.

8 Again, the Work Groups and the
9 Subcommittees deal with the issues initially,
10 and then bring them back to the full Board.
11 So is that making sense to everybody? Yes,
12 Paul.

13 MEMBER ZIEMER: That certainly
14 makes sense. It did occur to me that, if we
15 have a responsibility as a Board to follow up
16 on NIOSH's implementation of the 10-year plan,
17 and I guess that, in a sense, is what we are
18 talking about, that there is a sense in which,
19 if we have a lot of different Work Groups
20 picking up little pieces of this, it gets a
21 little fragmented, and things could fall
22 through the cracks as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 It just occurred to me that it
2 might be worth thinking about having a Work
3 Group that would focus on the follow-up. That
4 is, not that I am advocating more Work Groups;
5 we have plenty. But it is something to think
6 about. It is sort of the question: should
7 there be a group whose job it is to sort of
8 coordinate our follow-up in some way? That is
9 sort of the question that pops into my mind.

10 CHAIRMAN MELIUS: I would like to
11 respond. I think that is a legitimate
12 question I think we talked a little bit about
13 at the last meeting. NIOSH, I think, was of
14 the sense that they felt, at least at the
15 initial stages of their efforts, it was better
16 to work with the Work Groups. That seemed to
17 be where there is ongoing activity related to
18 these issues, and we really do want to
19 integrate it with what the ongoing activity of
20 both the Subcommittees and the Work Groups,
21 but I think -- let's see how this goes and
22 what the schedule is and how it will work out,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and then see whether a separate Work Group --
2 and I think, whether -- I am still wrestling a
3 little bit with whether an overriding issue
4 like sufficient accuracy is something -- how
5 to best deal with that in terms of Work Group
6 or Board or a separate Work Group to deal with
7 that issue, because that really does cut
8 across a lot of issues.

9 So we will keep that in mind and,
10 as we come to the next meetings, decide how we
11 want to handle that.

12 Anybody else have comments or
13 questions?

14 (No response.)

15 CHAIRMAN MELIUS: We have some
16 time left, and I will use it mostly to -- I
17 don't think we need to start Work Group or
18 Subcommittee reports yet, but a couple of
19 things to remind people of for work sessions.

20 We have comments from the August
21 meeting that we need to do that Ted emailed
22 out to everybody, if you can all take a look

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 at that, and we will get to that either this
2 afternoon or tomorrow sometime. When I looked
3 them over, they all looked relatively
4 straightforward. So I don't think it is a lot
5 of effort, unless you have a question or
6 concern about one of the comments or how we
7 handle that.

8 We do have also -- Mark, maybe
9 when you do your talk later about Rocky Flats,
10 but the DOL implementation issue that we put
11 on for last time, we will talk about and do
12 that.

13 I think those are the main
14 activities. We have some location for
15 meetings and dates for meetings that we will
16 need to start addressing, and we will at least
17 start that this afternoon when we have a Board
18 work session, because there are Board Members
19 that aren't here, and we have potentially new
20 Board Members coming on, but I think we need
21 to sort of give people time to maybe double-
22 check calendars or email some people and see

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 if we can get some -- try to pin down timing
2 for some of those meetings, and then we have
3 location issues.

4 Anybody have anything that is not
5 on the agenda that they would like to make
6 sure gets on the agenda for this meeting?

7 (No response.)

8 CHAIRMAN MELIUS: Okay. Now why
9 don't we break a little bit early and rejoin
10 at 1:30 back here. Thank you.

11 (Whereupon, the above-entitled
12 matter went off the record at 11:41 a.m. and
13 resumed at 1:34 p.m.)

14

15

16

17

18

19

20

21

22

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 We will start with a presentation
2 on Electro Metallurgical from Sam Glover.
3 Welcome, Sam.

4 DR. GLOVER: Thank you, Dr.
5 Melius. If parts of this look familiar, it
6 has been three years. Some of these slides
7 were previously presented in 2009, Rev. 0.

8 I wanted to say that we carefully
9 looked at it. SC&A did a report. We reviewed
10 the data. We reviewed new data, and we looked
11 at it and decided that NIOSH has concluded
12 that you can't back-extrapolate the data that
13 we have. So that is kind of the bottom line
14 as we walk through this. We changed our
15 conclusion for the early years.

16 So a brief history: Electro
17 Metallurgical, Electro Met, was located in
18 Niagara Falls, New York. It began operation
19 in 1942 under contract with MED. From August
20 13, 1942, through June '53, the plant
21 intermittently produced uranium metal.

22 And by intermittently, it had long

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 periods of production. Then it was shut down,
2 and then it would start up again. So they did
3 have shutdown periods. It is a DOE facility.

4 Electro Met was subsequently
5 acquired by Union Carbide, which was, in turn,
6 acquired by Dow Chemical. From 1942 to '51
7 operations were carried out with two standby
8 periods. On June 30, '53, all AEC operations
9 formally ceased, and the site was then
10 purchased by Electro Met. Also, uranium was
11 the only radioactive material present.

12 A brief summary of the petition:
13 On November 7, 2008, it was received. In
14 December 2008, an additional petition was
15 received. On March 12, 2009, received in
16 November -- Let's see. March 12, it qualified
17 for evaluation and was merged with the
18 petition previously received in December '08.
19 By July 23, 2009, an Evaluation Report was
20 issued, and SC&A issued a report subsequently.
21 In October 2009, the Evaluation Report was
22 presented to the Advisory Board.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 The Advisory Board has met several
2 times regarding various issues associated with
3 Electro Met. In November 2011, NIOSH, after
4 careful consideration of various factors,
5 notified the Working Group of its intent to
6 propose that a portion of the covered period
7 of Electro Met be added to the Class -- or as
8 a Class.

9 On January 31, 2012, Revision 1 of
10 the NIOSH Evaluation Report was issued, and
11 February 21 SC&A issued a partial review of
12 the Revised Report, which they will discuss
13 subsequently.

14 Our proposed SEC Class: The
15 Petitioners proposed a Class Definition of all
16 workers who worked at any area at Electro Met
17 from August 13, '42, through December 31,
18 1953. August 13th, the date is sort of set.
19 That is the earliest time that they recognize
20 the Manhattan Engineering District as
21 beginning. The Class evaluated by NIOSH was
22 the same: August 13, 1942, through June 30,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 1953.

2 We went through all the standard
3 sources: DOE Legacy Management, our Technical
4 Information Bulletins, Electro Met health
5 plans, all of the various -- we went to all
6 the different Oak Ridge facilities, Hanford.
7 We tried to -- everywhere we possibly could
8 find records, we went.

9 As of February 16th, we had 104
10 cases submitted to NIOSH. One hundred and two
11 of those had dose reconstructions complete.
12 One of those cases had internal dosimetry, one
13 case with external. Claims completed with a
14 PoC greater than 50 percent was 48.

15 Petition basis concerns were: few
16 workers monitored for external exposure, and
17 the effectiveness of the Worker Health
18 Protection and Industrial Health Programs.
19 These were the original petition concerns.

20 So a summary of monitoring:
21 Volunteer workers were intermittently
22 monitored to establish worker exposure levels.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 We have some data regarding issued dosimeters
2 to employees in 1944, a handful, and from '48
3 to '49. We don't believe we have all the
4 results. We have what is available.

5 Some urinalysis data are available
6 for 1944-1949. SC&A -- we will both describe
7 some different pieces of that. What I will
8 point out is that major health improvements
9 were done in 1947, and the predominance of the
10 air data that you are going to look at was
11 collected after that time frame. So we were
12 asking you to believe that you could back-
13 extrapolate and use that data in the previous
14 time frame.

15 Only a handful of the air sample
16 data are either BZ or GA types -- actually,
17 very few in the earliest time frame. We have
18 very few samples, period. I really want to
19 point out that the air data collected in this
20 early period is completely at odds with the
21 later data. They are much, much lower. It is
22 thousands of times higher when you look at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 those later time frames after the supposed
2 improvements happened. So it doesn't make
3 sense, and we have very few data.

4 There were some bioassay data
5 collected, but again very short campaigns. So
6 data monitoring programs after 1948 are much
7 better documented. We are all very familiar
8 with the Health and Safety Laboratory that
9 began implementing at that time. We have much
10 a better understanding of how their data was
11 collected, what methods they used. None of
12 that exists for the earlier time frame.

13 We have a very brief description
14 that they used Rochester, but very little
15 other information to go on to say why we
16 believe these early data would be good.

17 Early urine data available to
18 NIOSH collected from essentially a single
19 campaign. It was about a couple of months
20 time frame. So we do have some multiple data
21 points for some people.

22 So, while a portion of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 population were monitored, it is not possible
2 to determine if the highest exposed workers
3 were monitored, nor is there a group which
4 would constitute an appropriate surrogate data
5 or coworker group.

6 So just to give you a feel, this
7 is a graphical. You see the first campaign,
8 we have just a handful of data points. Then
9 you go to the second period with Health and
10 Safety Laboratories doing measurements, and
11 the data is tremendously higher. It doesn't
12 make sense after you make health improvements,
13 if you are monitoring the same places and
14 having similar types. We do not have what
15 methods they used. We do not know.

16 So if you look at that data and
17 want to say that the health improvements and
18 the back-extrapolate, that was what we were
19 asking you to believe before, and we have
20 looked at that more carefully, and we have
21 come to a different conclusion.

22 Just to give you a feel for it,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you can see here you have in the early years,
2 most of the early samples are general area
3 types. You do have a couple of BZs. You have
4 more of a mixture when you get into the '48-49
5 time frame, typical for a Health and Safety
6 Laboratory analysis.

7 Bioassay data: It looks like a
8 single point. There is some dispersion there.

9 You are looking at a couple of months time
10 frame back in that mid-1944 time frame. Then
11 you have another campaign in '48, and then
12 another one at the very end of the period.

13 The little box shows inside that
14 box is an active period when Electro Met was
15 operating, so just trying to give you a feel
16 for when things closed down. So inside the
17 box you have got an operational period.

18 Something else I want to point out
19 is: at this point in time I certainly don't
20 have the ability -- I have not found all the
21 records where I could say this much uranium
22 was rolled at this time versus the early

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 years. I do believe that there are
2 differences.

3 So if we were to try to do this, I
4 think we would have to be very careful
5 understanding what the total amount was in
6 both periods. So I think it would be very
7 complicated.

8 For external dosimetry, there
9 certainly are -- this showed -- it is very
10 complicated going through their dataset, and
11 SC&A has pointed out we have some differences.

12 Some of the data is rolled up into average
13 summaries. So you have to extract from that
14 individual results from air monitoring data
15 and for this other.

16 We have thousands of measurements
17 that were conducted in the late time frame,
18 and we believe that, based on our experience
19 with this type of operation, that we can do
20 external dosimetry at Electro Met.

21 Medical dose: Typical for a DOE
22 or AEC/AWE facility at this time. This is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 DOE facility. We have several references that
2 we believe we can use to do the medical
3 facility. We actually have descriptions of
4 the pre-employment annual and termination X-
5 rays that they did, and so we believe we can
6 do the medical dose.

7 So a summary of findings: NIOSH
8 has determined that neither the bioassay nor
9 the early limited air sampling data are
10 sufficient to bound the dose for Electro Met
11 for the period August 13, 1942 through
12 December 31, 1947.

13 We are all familiar with the two-
14 prong test. So, in summary, we find that it
15 is not feasible to estimate internal exposure
16 with sufficient accuracy for all workers at
17 the site from August 13, 1942 to December 31,
18 1947. Internal monitoring data, work area
19 radiological monitoring data, and source-term
20 data are not sufficient to provide
21 sufficiently accurate estimate of the bounding
22 internal dose during this early period at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Electro Met.

2 Our proposed Class is: all
3 employees of the Department of Energy, its
4 predecessor agencies and their contractors and
5 subcontractors who worked at the Electro
6 Metallurgical site in Niagara Falls, New York,
7 for the period August 13, 1942 through
8 December 31, 1947, for a number of work days
9 aggregating at least 250 work days occurring
10 either solely under this employment or in
11 combination with work days within the
12 parameters established for one or more other
13 Classes of employees in the Special Exposure
14 Cohort.

15 I revised this slide to show that
16 it is feasible after '47, so uranium. We
17 believe that for external we can do all years,
18 for gamma, beta, and occupational medical X-
19 rays, but of course, not feasible in the
20 early time frame.

21 Thank you very much.

22 CHAIRMAN MELIUS: Questions for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Sam? I think we are going to hear from Henry
2 next. What is the order going to be?

3 MEMBER ANDERSON: Well, I don't
4 know.

5 CHAIRMAN MELIUS: Well, it
6 is not on your annotated agenda that I am
7 reading from. You want John? John is fine. I
8 just didn't know. Why don't we hold questions
9 then?

10 MEMBER ANDERSON: Okay. What I am
11 going to quickly go through is what our Work
12 Group did, and there has really been two main
13 issues that we focused on. We began with the
14 NIOSH Evaluation Report for the SEC-00136, and
15 then there were also during that review some
16 incidental Site Profile issues. Again, this
17 is the former 6001, as you saw earlier became
18 -- Appendix C was under 6001, and then became
19 a separate issue and document for us to
20 review, but the SEC petition has stayed pretty
21 much the same.

22 Just to give you some sense of
what went on, the dark -- you can see where it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 is bolded. Our committee had three meetings
2 where we discussed this. We were assigned
3 this back in October of 2009 when the first
4 SEC ER was presented to the Board. It then
5 got assigned to us to review.

6 SC&A did their first initial
7 report, reviewing the ER in April of 2010. We
8 then met in July, where we began the
9 discussion, went through the matrix. There
10 were 18 items on the SEC review by SC&A, and
11 we very quickly were able to go through and
12 resolve many of those.

13 Then in May of 2011, May 16th,
14 just before the Work Group meeting, we got an
15 update report from NIOSH, and then in August
16 of 2011 we had another meeting where, again,
17 most of the issues were resolved, and NIOSH
18 shortly thereafter indicated that they were
19 going to revise the ER recommendations, and
20 further discussions were largely put on hold.

21 We had, in our initial
22 discussions, many of the issues that you saw,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 really two different time periods, different
2 monitoring results. We raised the issue about
3 the adequacy of the earlier samples. We also
4 saw that there had not been interview results,
5 and we recommended that worker interviews be
6 done, and those got added in.

7 The revised ER then came out
8 February 7th. Our Work Group meeting was
9 scheduled for the 21st. So there really
10 wasn't much time for SC&A to comment on the
11 revised ER, which, as you heard, reversed the
12 initial impression by NIOSH or recommendation
13 that they could do dose reconstructions, and
14 they looked more closely at the data and our
15 discussions.

16 That earlier portion then was
17 changed to make a recommendation that it
18 become an SEC, and as I say, in February the
19 21st we had some further discussion on that,
20 and it was at that meeting where SC&A came
21 forward and said on their initial kind of
22 short, quick review they disagreed with NIOSH,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that they thought maybe dose reconstructions
2 could be done and, of course, this meeting was
3 then coming up quite quickly.

4 So there wasn't time to try to
5 resolve all these issues prior to this
6 meeting. So after the initial discussion
7 there, our Work Group -- Bill and I were on
8 the phone at the time, and subsequently Mark
9 got somewhat up to speed on the issue as well,
10 and we decided to provisionally vote as a
11 group that we would accept the NIOSH
12 recommendation that there be an SEC, add an
13 SEC for the early year through 1947, but that
14 we would agree with NIOSH to deny the later
15 year where there was considerably more data,
16 and we felt, while it may not have been the
17 strongest data, that it could lead to
18 bounding and reasonable estimates of
19 exposures.

20 So we haven't had a chance as a
21 Work Group to meet and go over further. So
22 what we have said is we wanted to move this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 along, so we would bring the two parties here
2 to discuss before the Board, but after the
3 initial discussion and presentation at our
4 meeting, I think we as a Work Group felt that
5 NIOSH was correct in their assessment on the
6 quality of the data and the ability to
7 reconstruct these early year issues, that one
8 could say it is possible or you might be able
9 to, but we really felt it was a challenge to
10 tell NIOSH that they could do something that
11 they didn't think they could.

12 This is just further the Appendix
13 review, Appendix C. Again, there are just a
14 few issues in the TBD that need to be changed.

15 They are mostly technical ones, not impacting
16 the SEC evaluation at all.

17 The current status is -- and you
18 will hear about the review that SC&A has done,
19 and they really have -- there are two open
20 issues out of the 18 we started with, and then
21 dose reconstruction, not SEC, are six issues.

22 Two really are not relevant to Electro Met,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and they have been addressed in the revised
2 ER.

3 So pretty much our issues have
4 been resolved. The current status is really
5 two issues: can you do sufficiently accurate
6 assessments to do dose reconstruction in the
7 early years? Then there was also -- and we
8 have had this on numerous sites. It is a very
9 large plant and area, a relatively small
10 number of workers, and SC&A -- and we tended
11 to agree with that -- felt that you probably
12 could define who those workers were, but again
13 NIOSH went to DOE and DOL to say: couldn't
14 they define the Electro Met to be a specific
15 building or an area, and they basically came
16 back and said no. So it is a total worker
17 issue again, and the early years is one of
18 those issues that we have had come up at
19 numerous sites.

20 At this point, it is really
21 nothing that we can do about it or NIOSH. We
22 have raised the issues and have had them

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 rejected.

2 So with that, I will pass it on,
3 and then what we would like to do is, if you
4 have had a chance to look over the materials
5 or you have specific questions, but at this
6 point our feeling as a committee was that the
7 modifications NIOSH made are appropriate, and
8 we are supportive of granting the SEC in the
9 early years and then doing dose reconstruction
10 in the later years when we have a much more
11 compact dataset that can be worked with.

12 So, questions? We have kind of
13 moved back and forth. Again, just as a plea
14 as we move forward on a lot of these, we got
15 the information late before the meeting, and
16 then SC&A got it late. So we all got backed
17 up, and then this meeting was coming up. So
18 it was a very rapid turnaround to try to bring
19 this to our attention, but we felt there
20 wasn't much more that our Work Group could do
21 at this point in time. So we wanted to bring
22 it here. If you want to send it back to us to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 do something further, we really weren't very
2 directed. Recommendations for what you would
3 like us to do?

4 CHAIRMAN MELIUS: No, I think this
5 is fine, what you have done in terms of
6 process and probably outcome. We will hold
7 questions until -- let's do them all. Put the
8 three of them up there, and take our shot.

9 MR. STIVER: Good afternoon, Dr.
10 Melius and Members of the Board. I am John
11 Stiver with SC&A, and I am going to describe
12 SC&A's position on the latest Evaluation
13 Report that we had a relatively short
14 turnaround time to review, and some other
15 changes that we feel may be necessary since
16 this presentation was put together.

17 Last Friday, we had a technical
18 call moderated by Ted Katz with both SC&A
19 principals as well as NIOSH where we tried to
20 clarify some of the issues that we didn't
21 fully understand. Based on that discussion,
22 which was part of Dr. Glover's presentation

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 today, we have altered our stance, at least on
2 the first issue here.

3 I am not going to go through too
4 much detail on this, as it has already been
5 covered in both Sam and Henry's slideshows,
6 but I guess the most important aspect here is
7 that May 16, 2011, was when this new
8 information that NIOSH was able to gather
9 allowed them to change their position on the
10 ability to indeed reconstruct doses for that
11 earlier time period from 1942 to December 31st
12 of 1947.

13 This is just kind of a general
14 overview of our position on this issue. We
15 believe that all but two of our original
16 findings based on our Evaluation Report
17 reviews have been resolved. A number of them
18 were moved to TBD discussions, because they
19 really are pertinent to dose reconstruction
20 and not SEC issues.

21 This last bullet may take a bit of
22 explaining here. A process does not currently

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 exist to ensure that SC&A's findings related
2 to dose reconstruction are addressed in the
3 Site Profile.

4 Basically, we were never formally
5 tasked to review either Appendix C from TBD-
6 6001 or the new standalone Site Profile.
7 However, as part of our Evaluation Report
8 reviews, we did kind of an informal review,
9 but the findings related to the Site Profile
10 are kind of in limbo at this point in terms of
11 actually getting them implemented.

12 The two overarching issues that we
13 felt were of concern here were, as Sam
14 discussed, the ability to calculate bounding
15 doses for the early operations from 1942
16 through 1947, and the second which we believe
17 is still quite pertinent is the ability to
18 identify employees who worked in the area
19 plant where the MED activities were conducted
20 as compared to all employees who worked in
21 separate commercial operations, which
22 constitute several thousand employees.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Let's take a look at the bounding
2 doses for early operations. In the original
3 Evaluation Report, NIOSH indicated that they
4 did believe that they could calculate -- or
5 they could reconstruct the doses for that
6 early period by back-extrapolating this large
7 quantity of air sampling data; and in Finding
8 17 from our 2010 review, we did state that
9 NIOSH needs to provide convincing arguments
10 that the 95th percentile values based on the
11 1948-49 data are indeed bounding for the
12 period prior to December 1947.

13 In that review, our 2010 review,
14 we provided arguments both for and against the
15 proposition that this 95th percentile could
16 indeed be used, and we noted, among other
17 things, that while the basic process steps may
18 have been unchanged, as also you saw earlier,
19 1947, steps were taken to reduce the exposures
20 based on recommendations by the AEC medical
21 division.

22 In the Revised ER, NIOSH concluded

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 they could not bound these internal doses,
2 arguing that they had determined that neither
3 the bioassay nor the early limited air
4 sampling data are sufficient to bound internal
5 doses for the period under question.

6 While we indicate that the
7 opposite position is taken, we did not receive
8 the information in May of 2011 prior to the
9 St. Louis meeting. So we were not aware of
10 the details of the research that NIOSH had
11 done on the bioassay data from 1944, and that
12 will become evident in our subsequent
13 discussions here.

14 Based on our knowledge from our
15 reviews, we had accepted that NIOSH could
16 construct internal doses for later operations
17 based on air sampling data, and also our 2010
18 review had demonstrated from a statistical
19 standpoint, without knowledge of what these
20 data really represented, that the bioassay
21 data from 1944 and '49 were not statistically
22 different.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Ergo, you have bioassay data. If
2 you believe that that data from 1944 is indeed
3 representative of the exposure conditions that
4 existed during the entire five-year period,
5 and you believe that the later bioassay data
6 are also representative, and you have a good
7 set of data from the later period, then you
8 should be able to back-extrapolate.

9 That was our proposed alternate
10 logic that had come out from this short-term
11 review of the latest Evaluation Report that
12 was published on February 7th of this year.

13 The next two slides are just
14 graphics that kind of illustrate the idea of
15 how the bioassay data really are not
16 statistically distinguishable from one
17 another. The means, 95th percentiles, are
18 very close, I believe. For the 1944 data, it
19 was .05 micrograms per liter. In 1949, it was
20 at .045; the 95th percentile for .19 and .175,
21 and the GSD for the later period is a little
22 bit broader. I think it was about 5.7 or 5.4,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and it was about 4.3 for the earlier period.

2 This plot here shows kind of a box
3 representation of the 95th percent confidence
4 regions for the regression coefficients from
5 1944 and '49, and you see there is an overlap
6 on both the slope and the intercept, and the
7 broader range of the 1944 data has to do with
8 more values being less than the actual limit.

9 We also felt that the fact that
10 the earlier air sampling data, while sparse,
11 was considerably lower in the later data, that
12 that might also bolster the position that it
13 may be possible to use that later data to
14 back-extrapolate.

15 This is essentially the same slide
16 that Sam had presented earlier. It just
17 graphically represents the air sampling
18 concentrations and units of micrograms of
19 uranium per cubic meter of air for the period
20 of '48 and '49, and also shows the kind of
21 paucity of data in '43 and '44, but also the
22 fact that there were very low-level samples.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So I guess in summary, for that
2 first issue, we believe that it may still be
3 worthwhile looking into this or at least
4 considering the possibility that these doses
5 could be reconstructed. However, we felt that
6 that 1944 data, bioassay data, was really the
7 hook that would allow us to have some credible
8 representation of the early dataset that would
9 then allow back-extrapolation.

10 Based on the description of the
11 activities that did take place that Jim Neton
12 had provided, in the early forties there was a
13 lot of hand shoveling of this material. We
14 have basically one year of data over only
15 about a two-month period. We have operations
16 that are continuing over a five-year period, a
17 very small set of data that would have to
18 serve as a representative sample.

19 So we are really not really taking
20 a rigid stance on this. We feel that a
21 credible argument, weight of evidence
22 argument, could be presented for or against

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the SEC. So we are kind of backing off a bit
2 on our position based on that initial review.

3 As far as the identification of
4 the Area Plant workers, we believe this is
5 something that the Board really should look
6 into. The Class is currently defined as all
7 workers at Electro Met during that period of
8 1942 to 1947. However, we have a lot of
9 information here that indicates that that
10 Class could possibly be restricted.

11 Some of the information here is
12 that the primary business of Electro Met was
13 commercial. It was the manufacture of iron-
14 based alloys for the commercial markets.

15 The Area Plant was built in '42
16 under a MED contract, basically to reduce
17 green salt to metal and then to remelt it into
18 ingots for use in the AEC complex. The plant
19 was a single building located in one corner of
20 the existing Electro Met site, and it was
21 fenced, guarded, and had pretty effective
22 access control.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 The staff at the plant was fairly
2 well-characterized. It was small. There were
3 67 individuals. You can see the breakdown:
4 supervisors, about [Identifying information
5 redacted]; about [Identifying information
6 redacted] operators; and then the other
7 categories of guards, office workers, and so
8 forth, and also the outside support. You
9 didn't have a lot of janitors, support staff
10 coming in who may have been exposed but were
11 not monitored.

12 Basically, you have got
13 electricians that came in about two days a
14 month, and pipe fitters for about two days a
15 year. So we feel it is a pretty well defined
16 class of workers who had the exposure
17 potential at the Area Plant.

18 Our first finding, in fact, from
19 the April 2010 Evaluation Report was that
20 NIOSH had discussed the issue of access
21 controls explicitly in the Evaluation Report
22 to justify the basis for including all workers

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 at Electro Met, rather than just those who
2 worked in the Area Plant.

3 Evidently, NIOSH had contacted
4 Labor and replied that they believed they
5 could not place the workers in specific
6 buildings. However, it is not clear to what
7 extent DOL evaluated all the data that were
8 available in the SRDB and other sources.

9 We believe that this is an issue
10 that may justify further investigations of the
11 available data for defining the SEC Class. We
12 have included some examples of the data that
13 are available in the SRDB: 8912 was 47
14 workers, gives their names, job descriptions,
15 start date in the plant, when they were
16 transferred, laid off, when they were rehired
17 or recalled. So it's a pretty comprehensive
18 set of data for a lot of these workers.

19 There is also bioassay samples by
20 worker name. There is a lot of film badge
21 data available, some workers sampled more than
22 once. Granted, this is external dosimetry,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 but there is a lot of data available there,
2 and there is also results for the '43
3 urinalysis results by named workers with job
4 descriptions.

5 So we believe that sufficient data
6 do exist to review the conclusion that the
7 Area Plant workers cannot be specifically
8 identified.

9 That is pretty much the end of our
10 presentation. I would like to entertain any
11 questions at this point.

12 MS. LIN: Dr. Melius.

13 CHAIRMAN MELIUS: Yes?

14 MS. LIN: This is Jenny with HHS.

15 I ask the Board Members not to circulate the
16 presentation from John Stiver. It does
17 contain some Privacy-Act-protected
18 information. Once I have a chance to redact
19 some of those information, then I will let you
20 guys know.

21 CHAIRMAN MELIUS: I don't think it
22 has been circulated.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. LIN: Great. Thank you.

2 CHAIRMAN MELIUS: Okay. Josie?

3 MEMBER BEACH: I just have a
4 couple of questions. I noticed, Sam, in your
5 presentation it said that there were major
6 improvements from '47 -- starting in '47, and
7 then in the ER it said "health improvements."
8 Was that related to the sampling that you had
9 mid-'48, the bio-sampling, or was there
10 something other than that?

11 DR. GLOVER: It wasn't
12 necessarily sampling. There is not a lot of
13 description. They were not explicit. The
14 Health and Safety Laboratory, when they came
15 in in 1948, when AEC took control of all these
16 sites, Electro Met was one of those seven
17 facilities.

18 There is that real thick report
19 where they basically talked about Simonds Saw
20 and Steel and Electro Met and all that. So
21 that is when the Health and Safety Laboratory
22 came in and said, what the heck is going on,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 but we don't know what they did in '47
2 completely to fix it. We know that they
3 described it as major health improvements.

4 MEMBER BEACH: Well, I noticed
5 when I read the interview notes they talked
6 about it being very dusty. So I was curious
7 if it was based on that or the results.

8 Then the other question I have is:
9 can you give me a better description of the
10 external -- before '48 when you say you can do
11 all external, but I notice you don't have any
12 data until about mid-'48. So how are you
13 doing the earlier external?

14 DR. GLOVER: One of the things I
15 apologize for, when I made the changes to the
16 Evaluation Report, I tried to really focus on
17 making the change only with respect to our
18 deficiency.

19 When TBD-6001 fell apart or was
20 disbanded or however you want to say it --

21 MEMBER BEACH: Renamed?

22 DR. GLOVER: Renamed. Appendix C

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was just changed to TBD-6001 to make this new
2 Evaluation -- not an Evaluation, this new
3 Technical Basis Document. We did not update
4 it with the changes, and we didn't try to put
5 that into -- I would have far exceeded my time
6 in trying to get this to the Board and trying
7 to do this, because a lot of my changes are
8 based on getting this done.

9 So getting into the details of how
10 I am going to go all of the -- I guess I
11 didn't want to state every possible
12 deficiency. I believe that we can do it based
13 on all of the data we have done for TBD-6000
14 type work, for the kind of metallurgical work
15 and the ability to use those kind of
16 descriptions to come back with the external
17 dose.

18 MEMBER BEACH: Thank you.

19 CHAIRMAN MELIUS: Sam, while you
20 are up there, did I understand you correctly
21 that we really don't have production
22 information data over time for this facility,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 at least in the early years?

2 DR. GLOVER: I have intermittent
3 pieces, scraps and pieces. It is not
4 complete.

5 CHAIRMAN MELIUS: Because I would
6 think that that would be key to sort of
7 understanding were the two periods alike. To
8 me, looking at the different data that was
9 presented and so forth, it certainly doesn't
10 make sort of logical sense, if someone came in
11 and cleaned up the operation, so to speak,
12 that exposures would increase rather than
13 decrease.

14 Really, without sort of some good
15 source or production data, whatever you want
16 to call it, I think it is really hard to draw
17 conclusions on that from what has been
18 presented, one way or the other. I tend to
19 agree with your conclusions based on the
20 information you had, and not as much with what
21 SC&A was claiming.

22 I think, if we had the production

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 data, then maybe we could make more sense out
2 of it, but without that, I think it is
3 difficult. It sort of doesn't seem logical,
4 what happened.

5 Wanda. Then Paul.

6 MEMBER MUNN: Do your scraps of
7 information regarding production include a
8 scrap or two from 1944 and a scrap or two from
9 the '48 and '49 era?

10 DR. GLOVER: I must admit that,
11 yes, it certainly has. I don't have -- I did
12 not evaluate them analytically, because it was
13 so broken. I didn't feel it was going to be
14 worthwhile for me to be able to pull that data
15 together. We have some limited information
16 from both periods.

17 I believe the earliest period
18 would have been our largest series of
19 production as they were driving to get that
20 uranium out, but that is just my take on it.
21 They certainly then shut down for a year, year
22 and a half, then came back up and running for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 a while, but I don't -- we don't have good
2 numbers.

3 MEMBER MUNN: Yes, it would seem
4 logical, but by the same token, if you have
5 bioassays from both periods and there is no
6 significant difference between what we see in
7 the bioassays, then -- okay. No question in
8 that, just ruminations.

9 CHAIRMAN MELIUS: Again, just a
10 quick comment. It is hard to get a coherent
11 picture there without all the information.
12 That is what -- you are sort of grasping at
13 different pieces, and how does it fit
14 together? You are right to bring that up, but
15 I think --

16 MEMBER MUNN: Always, but the
17 issue as SC&A has presented it, and which
18 seems perfectly logical on the face of it is
19 that: if there are not significant changes in
20 the two groups of data that you have, then it
21 should be boundable, especially in such a
22 discretely identified group of workers as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this.

2 This is far more easy to define
3 than most of the sites, especially the AWE
4 sites that we have looked at. This one
5 clearly is set aside, and the workers in that
6 group are pretty well identified.

7 CHAIRMAN MELIUS: Well, I think
8 that is open to question also. Jim?

9 DR. NETON: This is Jim Neton. I
10 think we need to remember that this is a
11 snapshot of a couple of campaigns of bioassay
12 samples that we have had, and we are trying to
13 reconstruct an acute -- I mean a chronic
14 exposure scenario that occurred over a period
15 of four or five years, and all you have are
16 data in pretty much the middle of it that were
17 taken on a couple of different instances, and
18 how those data could be used to inform us as
19 to what the chronic exposure condition was
20 over the entire four-year period is not clear
21 to me.

22 The other thing we need to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 remember is what Sam pointed out, that the
2 early air sample data -- I think there were
3 primarily GA samples --

4 DR. GLOVER: That is correct.

5 DR. NETON: -- and we don't really
6 know the pedigree of those samples at all. We
7 do know that the later samples were taken by
8 the Health and Safety Laboratory, which we
9 know has a very good, excellent reputation for
10 doing quality measurements.

11 So there are a lot of disconnects
12 here that just don't add up or we are not
13 comfortable in saying that we can put an upper
14 bound on that early period, particularly
15 since, if it were a higher production era, the
16 numbers just -- the data that we have don't
17 make sense in light of what we know about what
18 was going on there.

19 CHAIRMAN MELIUS: Paul?

20 MEMBER ZIEMER: Sam, I noticed
21 that most of the claims submitted already have
22 been processed. Do you have any notion as to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 how those were distributed in time? There
2 were 104 claims. One hundred and two have
3 been completed, only two of which contained
4 actual external or internal dosimetry data.

5 So were these coworker model types
6 of calculations, and do we know how these are
7 distributed over those early years versus the
8 later? It may not be a fair question at this
9 point. I am trying to get a feel for whether
10 what you have already done is mostly with
11 later stuff that you could do easily or what
12 did you do on the early ones if this is part
13 of that?

14 DR. GLOVER: The TBD or the
15 Appendix C that was used basically took that
16 95th percentile approach, but it was
17 distributed by if they thought it was a
18 supervisor or a different kind of person,
19 there may be some variance. The 95th
20 percentile was used and 60,000 dpm per day
21 intakes, but that is not applied to everybody,
22 but a lot of workers, that is how we would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have done it, depending on the job title.

2 MEMBER ZIEMER: But you would have
3 done it the same way over all the time period
4 then. Is that what you are saying?

5 DR. GLOVER: We were using a
6 uniform model, yes, sir.

7 MEMBER ZIEMER: Got you. That was
8 just one question for clarity, in my mind.

9 I also wonder if maybe John Stiver
10 could comment based on what you just heard Jim
11 Neton say. I got the feeling that SC&A maybe
12 was hedging a little bit on your written
13 conclusion that you believe dose can be
14 reconstructed.

15 MR. STIVER: Yes. We did not have
16 the detailed information regarding --

17 MEMBER ZIEMER: Those things that
18 Jim talked about just now?

19 MR. STIVER: -- the things that
20 Jim had talked about and what Sam had brought
21 up about this being taken in a very short
22 campaign. If you can accept the proposition

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that that dataset is indeed representative of
2 the entire period of operations, then you can
3 make that logical extension and extrapolate
4 that data.

5 I guess the question becomes just
6 one of weight of evidence and making a
7 judgment as to whether you have enough faith
8 in that dataset and its pedigree to make that
9 extrapolation.

10 MEMBER ZIEMER: But you didn't
11 have that information at the time you that you
12 reached that conclusion?

13 MR. STIVER: We did not really
14 have that information. We had six months. We
15 had made some preliminary observations. We
16 didn't have that information that NIOSH had
17 used, basically, about May of last year to
18 make that change in their interpretation. So
19 we were kind of scrambling to pull all that
20 together.

21 MEMBER ZIEMER: Okay. I am just
22 trying to get a feel for the extent to which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you two are -- you two being NIOSH and SC&A --
2 are far apart or together. It looks like you
3 are closer than I thought you were.

4 MR. STIVER: I would say at this
5 point we are probably closer together. This
6 thing has been moving forward very rapidly.

7 MEMBER ZIEMER: Then my final
8 follow-up is: If we were to identify this as
9 a -- well, whether we do an SEC Class or not,
10 I think the question about restricting it to
11 the full -- to the MED site versus the full
12 facility, I am a little uncomfortable with
13 where we are on that. The statement that DOL
14 can't administer it -- do we know that? Is
15 that really the case?

16 MR. STIVER: Maybe NIOSH can --

17 MEMBER ZIEMER: Sam, can you speak
18 to that a little more? It looked like there
19 is good restrictions there.

20 DR. GLOVER: This is a DOE site --
21 you know, this compound was built by the
22 Department of Energy with DOE money. So now

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this thing is built in the middle of the site.

2 If they don't put the people in the site --
3 what's that, sir?

4 MEMBER ZIEMER: The fenced area
5 that you are talking about?

6 DR. GLOVER: Yes, sir. There's a
7 DOE portion. So the Department of Labor nor
8 the company, they won't put the people -- if
9 they don't give them to us for dose
10 reconstruction, then we wouldn't try to -- we
11 wouldn't be forced to -- we do not have
12 records for everyone. We don't know who those
13 people are, and we had a lot of them, but the
14 company won't help. The Department can't --
15 they don't believe they can be any more
16 specific.

17 If they did find records and were
18 able to administer it more closely, it by
19 definition is already a Electro Met DOE
20 facility, and they could -- but they company
21 said they can't do it, and the Department of
22 Labor in their answer to us, they said, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 know, we can't do any better than that
2 information.

3 They are going to give us those
4 people for dose reconstruction.

5 MEMBER ZIEMER: So I think SC&A
6 was just raising the question at this point.
7 You didn't have evidence, did you, John?

8 MR. STIVER: No, we didn't have
9 evidence. We just felt that it was impossible
10 to constrain that Class.

11 CHAIRMAN MELIUS: I think the
12 issue with all of these situations is not
13 whether or not there are lists that indicate
14 who worked there or who was monitored. It is:
15 are those inclusive? And we run into this. I
16 think do we have adequate records, personnel
17 or otherwise, to say that, you know, and then
18 know enough about the sampling program and so
19 forth to know whether -- monitoring program --
20 to know whether everybody is included, that we
21 could match these people up.

22 I guess I am just skeptical, both

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on what I have heard and what has been
2 presented, but also given the time period
3 involved with the site, I think we continue to
4 be surprised by how, even at some of the
5 bigger, larger sites and ongoing sites, how
6 often this is not the case when we try to
7 isolate a part of a site.

8 Anybody else have any questions or
9 comments? Yes?

10 MEMBER ANDERSON: I guess you have
11 got our recommendation already.

12 CHAIRMAN MELIUS: We have a
13 motion?

14 MEMBER ANDERSON: Yes.

15 CHAIRMAN MELIUS: We have a motion
16 from the Work Group essentially to approve the
17 NIOSH report and so forth.

18 MEMBER SCHOFIELD: I second that.

19 CHAIRMAN MELIUS: We have a second
20 from Phil. Any further discussion or comment?
21 Okay. Do the roll?

22 MEMBER GRIFFON: The vote is to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 accept the Class as proposed by NIOSH.

2 CHAIRMAN MELIUS: To accept the
3 motion from the Work Group.

4 MEMBER GRIFFON: Which is a motion
5 to add a Class.

6 CHAIRMAN MELIUS: Yes. Do we have
7 the letter, copies of the letter. We can do
8 this through the --

9 MEMBER ANDERSON: Yes. From
10 August 13, '42 to December 31, 1947. It is
11 that time frame.

12 CHAIRMAN MELIUS: I just want to
13 make sure that Members of the Board have the
14 letter. I think Nancy is going to check. We
15 are trying to get copies.

16 MEMBER MUNN: This is all employees
17 of the whole site.

18 CHAIRMAN MELIUS: Yes. Why don't
19 we do the vote?

20 MS. LIN: Dr. Melius?

21 CHAIRMAN MELIUS: Yes.

22 MS. LIN: My understanding is that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the Work Group recommended to accept the
2 earlier year which is '42 to '47 as the SEC
3 time period, and then the later time period
4 could be that dose reconstruction would be
5 feasible.

6 CHAIRMAN MELIUS: That is not in
7 the letter. Because that wasn't clear -- so
8 we will just do the SEC.

9 MR. KATZ: Do you want me to
10 proceed?

11 CHAIRMAN MELIUS: Go ahead and
12 proceed, yes. I want to get the letter.

13 MR. KATZ: Dr. Anderson?

14 MEMBER ANDERSON: Yes.

15 MR. KATZ: Ms. Beach?

16 MEMBER BEACH: Yes.

17 MR. KATZ: Mr. Clawson?

18 MEMBER CLAWSON: Yes.

19 MR. KATZ: Dr. Field?

20 MEMBER FIELD: Yes.

21 MR. KATZ: Mr. Gibson?

22 MEMBER GIBSON: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. KATZ: Mr. Griffon?

2 MEMBER GRIFFON: Yes.

3 MR. KATZ: Dr. Lemen is absent. I
4 will collect his vote after this meeting.

5 Dr. Lockett?

6 MEMBER LOCKEY: Yes.

7 MR. KATZ: Dr. Melius?

8 CHAIRMAN MELIUS: Yes.

9 MR. KATZ: Ms. Munn?

10 MEMBER MUNN: I am abstaining.

11 MR. KATZ: Abstaining. Dr. Poston
12 is absent. I will collect his vote.

13 Dr. Richardson?

14 MEMBER RICHARDSON: Yes.

15 MR. KATZ: Dr. Roessler?

16 MEMBER ROESSLER: Yes.

17 MR. KATZ: Mr. Schofield?

18 MEMBER SCHOFIELD: Yes.

19 MR. KATZ: And Dr. Ziemer?

20 MEMBER ZIEMER: Yes.

21 MR. KATZ: So the motion passes
22 with one abstention and two absentees to be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 collected.

2 MR. CIVILETTO: Gentlemen?

3 CHAIRMAN MELIUS: Yes? Oh, the
4 petitioner. Go ahead.

5 MR. CIVILETTO: Hello?

6 MR. KATZ: Yes, go ahead. We can
7 hear you.

8 MR. CIVILETTO: Yes. I was just
9 wondering, I would very much like to address
10 the Board. Is there sufficient time to do
11 that?

12 CHAIRMAN MELIUS: Yes, there is.
13 We apologize. We were informed that you were
14 going to listen in, but not that you were
15 going to address. But you are welcome to
16 address the Board.

17 MR. CIVILETTO: And I will try to
18 be quick, and I certainly appreciate the
19 opportunity.

20 I really strongly urge the Board
21 Members to accept the SEC Class that has been
22 recommended by NIOSH, and to estimate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 radiation dose with sufficient accuracy, the
2 federal law does require NIOSH to establish it
3 had access to sufficient information.
4 Sufficient, obviously, is the key word.

5 I think Dr. Glover stated that,
6 without hesitation, NIOSH is recommending this
7 Class, because they really are unable to
8 estimate dose reconstruction. I am not going
9 to rehash. There obviously is limited data,
10 air sample data, urinalysis data.

11 One of the points that I had
12 contended in my petition was that -- and it
13 has now been confirmed -- that there were
14 records found that had Electro Met radiation
15 dust exposure in those early years that NIOSH
16 is addressing was 500 times greater than the
17 tolerance levels of the day.

18 With respect to the issue of --
19 and I think it was important that both Electro
20 Met and the DOL cannot with any degree of
21 certainty place employees in certain buildings
22 or even in the Area Plant. Before I filed the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 petition on behalf of my father who worked at
2 Carbide, I requested records of where he had
3 worked. I was very young when he worked
4 during the war years, but I was told that
5 there were no records available.

6 My father worked at Electro Met
7 from 1938 until his untimely death from colon
8 cancer in 1965. He was 55 years of age. My
9 family and I had no knowledge in 1965 or even
10 in the later years that Electro Met was
11 involved in the Manhattan Project.

12 The claim my sister and I, which
13 was filed, I believe, in 2006, for survivor
14 benefits was denied based upon dose
15 reconstruction. I work. I am an attorney. I
16 work with many other families that were
17 involved, and really, what is of utmost
18 concern to many family survivors is that
19 employees in so many of the plants, including
20 Electro Met, were unwittingly working in this
21 Manhattan Project at tremendous risk to their
22 lives. So many, many that I personally know

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have died from cancer.

2 The U.S. government placed all of
3 these employees in positions of high risk to
4 their health and lives at a time when, really,
5 little was known about the danger of exposure
6 to radiation. There clearly was little
7 monitoring.

8 I believe, and sincerely believe,
9 that the question to be answered is: should
10 employees of Electro Met or their family
11 survivors be faced with an insurmountable
12 burden of proving exposure? I was just unable
13 to do that on behalf of my father. I honestly
14 think that that can't be done with that
15 burden.

16 Your decision is, obviously,
17 critical. The success or the failure of
18 claims for a fair and just compensation hangs
19 in the balance, and I respectfully ask that
20 the Advisory Board Members accept NIOSH's
21 recommendations, and I thank you for this
22 opportunity.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN MELIUS: Thank you.
2 Again, I apologize. We didn't understand that
3 you wanted to speak, but we appreciate your
4 comments and taking the time.

5 MR. CIVILETTO: Thank you.

6 CHAIRMAN MELIUS: We are going to
7 hold off on the letter. We are having some
8 drafting issues at the moment.

9 We have a Board work session now.
10 The SEC is approved, and we will come back
11 and do the letter a little bit later on that.

12 Ted, do you want to talk about
13 future meetings? I want to get that
14 information out.

15 MR. KATZ: Sure. We have to
16 schedule out, because our next face-to-face
17 meeting is June -- schedule out the next. We
18 are scheduled for September 18-20 Board
19 meeting. So I am scheduling beyond that, the
20 next two meetings, the next teleconference and
21 the next Board meeting.

22 MEMBER ROESSLER: Could you review

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the ones that are already scheduled?

2 MR. KATZ: Sure, sure. We have an
3 April 26th teleconference, and then a June 19-
4 21 Board meeting in Santa Fe; August 15th
5 teleconference; and then September 18-20 Board
6 meeting, place to be determined, and we will
7 talk about that in a moment.

8 MEMBER ROESSLER: Thank you.

9 MR. KATZ: Then we are scheduling
10 out beyond that, the next two. The next
11 teleconference: The right time frame is the
12 week of November 5th-9th or, backing up, it is
13 not quite as good timing but October 29th
14 through 11/2. It just depends on whether
15 either of those weeks is completely
16 problematic.

17 So 11/5-9 is the better week in
18 terms of timing, but if that doesn't work, we
19 will back up.

20 And this is -- we are only talking
21 about a teleconference, right? So it is a
22 sort of 11 to 1 proposition, 11:00 a.m. to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 1:00 p.m.

2 MEMBER RICHARDSON: The 7th and
3 8th are out for me. I've got a meeting.

4 MEMBER LOCKEY: The 6th is out for
5 me.

6 MR. KATZ: So, 6, 7 and 8, I hear,
7 are out. This is November. So the fifth or
8 the ninth, are either of those a problem?

9 MEMBER ANDERSON: The fifth is
10 good.

11 MR. KATZ: Does November 5th work
12 for everyone? Okay. So for now, we will have
13 11/5 teleconference.

14 All right. Face-to-face then,
15 December 10-14 or 17-21. Either of those a
16 problem?

17 MEMBER ANDERSON: What date?

18 MR. KATZ: Well, whole weeks, it
19 could be any point in the week, but the week
20 of December 10-14 is one possibility.

21 MEMBER MUNN: Eleven, 12, 13?

22 MR. KATZ: Right. That is the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 middle of the week, or the following week in
2 December.

3 MEMBER RICHARDSON: The start of
4 the week would be better, if possible.

5 MR. KATZ: You mean 10th through
6 13th, David?

7 MEMBER RICHARDSON: Yes.

8 MEMBER LOCKEY: Tenth through the
9 12th, right?

10 MR. KATZ: Tenth through 12th,
11 right. Does that work for everyone? Okay.
12 So December 10th through 12th. All right.

13 CHAIRMAN MELIUS: Is there a
14 problem with the 13th? I am not suggesting,
15 but I do think --

16 MEMBER BEACH: Traveling on Sunday.

17 CHAIRMAN MELIUS: Yes, depending on
18 where we locate it.

19 MR. KATZ: Someone suggested the
20 beginning of the week, but does that work,
21 David, December 11th, 12th, 13th?

22 MEMBER RICHARDSON: It takes me

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 out of two days of teaching.

2 CHAIRMAN MELIUS: Let's keep it at
3 10th through 12th, if we can. I just also
4 think it would be good to consult our two
5 absent and our two new full Board Members.

6 MR. KATZ: We don't know at this
7 point whether it is a two-day or a three-day
8 meeting as well.

9 CHAIRMAN MELIUS: Right, which is
10 the other issue also, and so forth.

11 MR. KATZ: So for now we will keep
12 it penciled in the 10th through 12th, but we
13 will follow back with you all on that.

14 MEMBER ANDERSON: If you do it on
15 the 10th, everybody has got to bring presents.
16 It is my birthday.

17 CHAIRMAN MELIUS: Smoked fish. We
18 already heard.

19 MR. KATZ: Depending on where it
20 is, too, we could do it the afternoon of the
21 first day, if it is on that Monday.

22 CHAIRMAN MELIUS: Locations?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. KATZ: Location. So now we
2 are talking about locations for the September
3 meeting. That is September 18th through 20th.

4 Just a few thoughts to throw out for your
5 consideration: One, a lot of claims always
6 from Tennessee. We haven't been there. We
7 have intended to go there before, and it has
8 fallen through. I am thinking of locations
9 especially that are good while it is still
10 relatively warm, so they are easier to get to.

11 Tennessee is one. Idaho is
12 another possibility, and part of this depends
13 on what work is lining up for the time period.

14 Josie?

15 MEMBER BEACH: Were we not set to
16 go to D.C. also?

17 MR. KATZ: We were, but there is
18 no site in D.C. So we are not serving any of
19 the workers, at least, if we want them
20 present, but that is another location that we
21 have been solicited to visit. Idaho --

22 MEMBER CLAWSON: December sounds

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 great to me.

2 MR. KATZ: For where, Brad? Well,
3 Idaho -- September is still okay in Idaho,
4 right? You're not snowed in? So the two other
5 places on the East Coast -- well, there are
6 three other possibilities. One, there is a
7 AWE in Massachusetts that will have an SEC
8 Evaluation ready in June. So plenty ripe for
9 SC&A to look at that as well before the
10 meeting occurs. That is in West Concord,
11 Massachusetts, which is, I think, not too hard
12 to get to. But it is small. It has 21
13 claims. So it is a small site.

14 CHAIRMAN MELIUS: We are not going
15 to have significant turnout there, I can
16 imagine.

17 MR. KATZ: That may be. We
18 haven't been in Tennessee in quite a while.

19 CHAIRMAN MELIUS: Tennessee -- the
20 only other question I have is the petition we
21 don't know about yet, but my understanding is
22 it is on its way to the Federal Register,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 which is Rocky Flats.

2 MR. KATZ: Rocky Flats.

3 MR. RUTHERFORD: Yes, Rocky Flats
4 is qualified. It is a qualified petition now,
5 and we will have Rocky Flats done before that
6 September Board meeting. In fact, we would be
7 presenting it at that September Board meeting,
8 but we will be presenting ORNL probably in
9 June.

10 MR. KATZ: Okay. Well, in terms
11 of timing then, it makes some sense to --
12 Colorado. If the ER is going to be ready, to
13 present it locally would be great. Does
14 anybody have any other thoughts about that?

15 CHAIRMAN MELIUS: And hold
16 Tennessee for consideration for the December?

17 MEMBER SCHOFIELD: I have actually
18 had some contacts requesting that we come to
19 Tennessee, phone calls and emails. I know,
20 since I came on the Board, we have not been to
21 Tennessee. So it has been a long time.

22 MEMBER MUNN: Well, if our two

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 choices are Colorado and Tennessee, it seems
2 more logical to be in Colorado in September.

3 MR. KATZ: In terms of weather and
4 travel, it makes more sense.

5 CHAIRMAN MELIUS: And the timing
6 would be good in terms of the Evaluation
7 Report also.

8 MEMBER MUNN: So Colorado in
9 September?

10 MR. KATZ: And then Tennessee in
11 December? Do we want to be in Oak Ridge?
12 When we are talking about Tennessee, do we
13 have -- yes? All right. That takes care of
14 scheduling issues.

15 CHAIRMAN MELIUS: Okay. We can do
16 the Electro Metallurgical letter. I have got
17 the editing straightened out, and I will start
18 by first clarifying the editing, and then I
19 will read through the whole letter so you
20 don't get confused.

21 There is a little problem in terms
22 of getting this onto letterhead and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 transmitting this, so a little confusion. But
2 if you go down to the second paragraph where
3 it starts, "The National Institute for
4 Occupational Safety and Health," take out
5 those whole two lines, that sentence, and it
6 should be, "The Board respectfully recommends
7 that SEC status be accorded to", colon, which
8 is the usual style of these letters.

9 So I will start and read this into
10 the record:

11 "The Advisory Board on Radiation
12 and Worker Health (the Board) has evaluated
13 Special Exposure Cohort (SEC) petition 00136
14 concerning workers at the Electro
15 Metallurgical Site in Niagara Falls, New York,
16 under the statutory requirements established
17 by the Energy Employees Occupational Illness
18 Compensation Program Act of 2000 (EEOICPA) and
19 incorporated into 42 CFR Section 83.13.

20 "The Board respectfully recommends
21 that SEC status be accorded to, quote, 'all
22 employees of the Department of Energy, its

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 predecessor agencies, and their contractors
2 and subcontractors who worked at the Electro
3 Metallurgical site in Niagara Falls, New York,
4 from August 13, 1942 through December 31,
5 1947, for a number of work days aggregating at
6 least 250 work days occurring either solely
7 under this employment or in combination with
8 work days within the parameters established
9 for one or more other Classes of employees
10 included in the Special Exposure Cohort.'
11 Close quote.

12 "This recommendation is based on
13 the following factors: Individual's employ at
14 the Electro Metallurgical site during the time
15 period in question; worked on uranium metal
16 fabrication and scrap recovery related to
17 nuclear weapons production.

18 "Two, the National Institute for
19 Occupational Safety and Health, NIOSH, review
20 of available monitoring data as well as
21 available process and source term information
22 for this facility found that NIOSH lacked the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 sufficient information to allow it to estimate
2 with sufficient accuracy the potential
3 internal exposures to uranium which employees
4 at this facility may have been subjected
5 during the time period from August 13, 1942,
6 through December 31, 1947. The Board concurs
7 with this determination.

8 "NIOSH determined that health may
9 have been endangered for these Electro
10 Metallurgical employees during the time period
11 in question. The Board also concurs with this
12 determination.

13 "Based on these considerations and
14 the discussion at the February 28-29, 2012,
15 Board meeting held in Oakland, California, the
16 Board recommends that this Class be added to
17 the SEC. Enclosed is the documentation from
18 the Board meeting where this SEC Class was
19 discussed. Documentation includes copies to
20 the petition, NIOSH review thereof, and
21 related materials. If any of these items are
22 unavailable at this time, they will follow

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 shortly."

2 Comments, questions on that?
3 Okay. Why don't we go on and start on our
4 Board reports, Subcommittees and all? Mark,
5 DR, top of the list.

6 MEMBER GRIFFON: We had a meeting.
7 I forget the date, but we had a meeting
8 between the last Board meeting and now. I
9 guess several things we were looking at.
10 There are several action items that came out
11 of this related to either the 10-year
12 recommendations or our previous questions
13 about QA/QC, and we came out with several
14 actions which SC&A and NIOSH hopefully
15 remember these actions. If not, we are
16 putting them on the record today.

17 One of them is for SC&A to look at
18 the themes of findings in the 11 through 14
19 sets of cases. Several of these actions that
20 we looked at were to sort of get at this issue
21 of we are well behind -- the Subcommittee is
22 well behind the progress that SC&A is making,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and we are actually reviewing cases that are
2 often much older than where NIOSH is currently
3 working. So we are trying to sort of think of
4 ways to triage the process.

5 We have several of these
6 proposals. Maybe I don't have to go down all
7 of them, but several of these proposals to
8 look at to sort of get at that issue. Then I
9 think, at our next Subcommittee meeting, we
10 are going to go over some of those. I am not
11 sure that we need to continue on the path with
12 all of these, but we want to sort of see what
13 they come up with.

14 One is to look at the themes.
15 Another is for SC&A -- Stu reported earlier
16 that NIOSH is doing a sort of duplicate
17 analysis of some cases that come in with ORAU,
18 and we have asked that, after they report that
19 to our Subcommittee, then SC&A will -- we will
20 assign those cases to SC&A, too, to review.
21 So we will sort of have that set reviewed by
22 three parties.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 A third one is: NIOSH is going to
2 provide a report on what ORAU is doing with
3 regard to their QA/QC program, and some of the
4 questions we discussed there was sort of this
5 question of it looked like in their
6 presentation to us, to the Subcommittee, that
7 they have made a lot of quote, "fixes" in the
8 program over the years, but they never sort of
9 had any benchmark to measure against, like how
10 -- intuitively, it seems that several of these
11 fixes would have reduced the number of sort of
12 data entry errors and other sort of quality
13 errors, but there is sort of no benchmark to
14 measure against.

15 So we want to see how they are
16 actually benchmarking and how they are
17 measuring their performance going forward,
18 what they have in terms of QA/QC. I think we
19 really want to look at that closely, and then
20 NIOSH said that they are going to give us what
21 they can at the next Subcommittee meeting with
22 regard to ORAU's process.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 The last one is that NIOSH is --
2 oh, another attempt to get at the more current
3 issues was in the 12th set of cases, NIOSH
4 took the five most recent cases, and they have
5 reviewed those cases, and these were already
6 done by SC&A, but they are going to come back
7 with their analysis on those.

8 So we have been sort of plugging
9 away. We are right now on the seventh,
10 eighth, and ninth set in various stages of
11 review on all those findings, but we thought,
12 to get more at the current issues, we are
13 going to try to do a triage process up to
14 where SC&A -- SC&A is far ahead of us. We
15 want to look at the more current cases, see if
16 we are still finding the same kind of
17 findings, same kind of issues. We want to
18 sort of get a sense of that, and then maybe
19 reassess our path forward on doing all the
20 findings and going through that process.

21 The last item, I guess, is NIOSH -
22 - we did discuss at the last meeting some of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the recommendations from the 10-year plan, and
2 NIOSH is going to provide us with an
3 assessment on some of those items.

4 They said they were at various
5 stages on some of these, such as timeliness.
6 I think the least far developed of the issues
7 is claimant-favorability, sort of getting a
8 sense of the degree of claimant-favorability
9 in the Dose Reconstruction Program.

10 Then the last one, which I think
11 is the most mature -- Stu might be able to
12 speak to this more directly as he walks in the
13 room. The most maturely developed is the
14 overestimation question.

15 Stu had mentioned the possibility
16 of NIOSH sort of not doing overestimates
17 anymore, and now I think they are
18 reconsidering some options. For instance, one
19 example which was brought up at the last
20 Committee meeting was to possibly not do
21 overestimates for skin cancer cases, because
22 they often come back with multiple cancers.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So I think they may have ruled out
2 eliminating the overestimating process
3 completely. In other words, they are going to
4 use it sometimes, I think, but they are
5 looking at different proposals of maybe
6 cutting back on the extent to which they use
7 the overestimating approach.

8 Apparently, eliminating the
9 overestimating approach completely was going
10 to be a cost issue. There was actually a lot
11 of efficiencies gained as far as at least --
12 Stu maybe can expand on that, but that is what
13 -- and we asked just to maybe develop this in
14 writing, and come back to the Committee with
15 sort of some proposals in between. I don't
16 know if you want to --

17 MR. HINNEFELD: Yes. There is a
18 fairly high percentage of cases that use some
19 sort of expedient approach, and the savings is
20 at least -- I can't remember exactly, but it
21 is at least half the time it takes -- it takes
22 twice at least twice as long to do a full dose

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 reconstruction as it does, on average, an
2 expedient one. So that is twice as much time
3 and, therefore, twice as much money dedicated
4 in order to keep the same level of production.

5 So that just doesn't seem to be
6 feasible in light of all the other competing
7 priorities, but we are pursuing some other
8 possibilities. Like Mark was talking about,
9 if we don't overestimate skin, what is the
10 impact of that?

11 We are approaching some DOE sites
12 that don't routinely give us medical exposure
13 information when we ask for exposure
14 histories, and saying: can you make this a
15 part of your routine response to us when we
16 ask these? Because a common overestimating
17 approach is to use sort of the default values
18 for number of annual X-rays, and then if it
19 comes out using the default you're over the 50
20 percent, then you don't get the actual
21 exposure information which, of course, is not
22 very helpful in a couple of ways.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 At some sites, that would be a
2 terrifically larger burden. So some sites
3 aren't going to be able to give us the
4 exposure -- their medical X-ray exposure
5 information with routine requests, but there
6 are some sites we might be able to make some
7 headway on it.

8 So we are kind of nibbling at some
9 edges right now. Then any real large-scale
10 change would involve the commitment of quite a
11 large amount of resources that would then be
12 distracted from other parts of the program or
13 the other things we are trying to accomplish.

14 So we are a little hesitant to go marching
15 real aggressively down that path.

16 MEMBER GRIFFON: The other thing,
17 I think, we had quite a bit of discussion on -
18 - and Stu mentioned earlier in his
19 presentation the sampling of two per month.
20 Actually, in the last year our Subcommittee
21 transcripts, which I was reading this morning,
22 it was saying two per week, but maybe that was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 modified. I don't know.

2 MR. HINNEFELD: I believe it might
3 be two per week.

4 MEMBER GRIFFON: Okay. Anyway,
5 that would have resulted in approximately two
6 percent. That was sort of the idea, yes. But
7 another part of our discussion was the concern
8 of whatever sort of analysis we do but also
9 what process ORAU has in place shouldn't be
10 sort of this find and fix approach.

11 In other words, if NIOSH is doing
12 these two per week or month or whatever, and
13 the Committee reviews them and then we find a
14 problem in a certain TBD and fix it, that is
15 not getting at the higher level question of
16 quality control of the entire program.

17 So we want to sort of step back
18 and look at the overall are we getting a
19 reduction in errors from the quality changes
20 that have been made over time in the program?

21 So that is something we are trying to grapple
22 with, of what is the best way -- with these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 different approaches, what is the best way for
2 the Subcommittee to do that?

3 So at the next meeting, we are
4 going to have a bunch of these updates and,
5 hopefully, fine-tune where we are taking this
6 to get a handle on the QA/QC questions, and
7 other themes, I should say.

8 Some of the other themes that were
9 brought up were -- just off the top of my
10 head, it was: often we have the question of
11 placement of workers. This comes up with
12 neutron dose reconstructions a lot where, if
13 neutrons were only on certain sites in certain
14 buildings, then it comes down to NIOSH being
15 able to assure the Work Group or the Board
16 that the workers were only in certain
17 buildings over the course of their career. So
18 it is always a question of placement.

19 That is at least one example of
20 another theme that we have seen running
21 through a lot of our findings. I can't off
22 the top of my head come up with others, but we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 are going to look at that at the next meeting
2 as well.

3 Otherwise, the Committee just
4 continued on plugging through in our normal
5 process, going through the findings of the
6 seventh, eighth and ninth set. I don't know
7 if we got to the ninth set, but at least
8 seventh and eighth set of cases.

9 CHAIRMAN MELIUS: Okay. I've got a
10 couple of comments. One is, we have been
11 doing this same plan -- we have been following
12 this plan for 10 years in terms of -- I think
13 it was the first year we set out the original
14 plan, if my memory is correct, of how we would
15 do dose reconstruction reviews.

16 I don't think we followed it
17 absolutely, but we have pretty much stuck to
18 that plan, and to some extent, maybe it is
19 time to sort of rethink that plan or,
20 certainly, adjust it at this point in time.

21 I think there have been some
22 changes to the program. NIOSH is stepping up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 its QA/QC, sounds like, and working on that
2 aspect of it, but I think there is also -- we
3 are supposed to, as a Board, provide
4 independent review on are dose reconstructions
5 accurate and so forth, and I think that is
6 more than just QA/QC. It is bigger. It
7 includes the Site Profiles, the TBD --
8 everything that is associated with the program
9 that goes into making a good dose
10 reconstruction.

11 So we have not done a lot of
12 blinded reviews. Other issues like that, I
13 think, would be worth sort of rethinking going
14 forward. I think the way you are talking
15 about sounds fine, but I would encourage the
16 Subcommittee to sort of take a broader look.
17 Do we need to adjust the process, the mix, the
18 numbers, whatever, to do this?

19 Certainly, I think, given that
20 this is a charge to the Board from Congress in
21 the original legislation, are we doing an
22 adequate number of what we are doing, and do

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we need more resources either from the Board
2 level or from the NIOSH level in terms of
3 responding to these reviews to get this job
4 done in a way that it should be done.

5 I really think now, with the 10-
6 year review and some of the changes in place,
7 now would be the time to start to look at some
8 of those questions also. I don't think you
9 would do it in your next meeting, necessarily,
10 but certainly coming back, some Board
11 discussion, and figure out how we approach
12 this, and what is the best way?

13 MEMBER GRIFFON: I don't think, my
14 intent wasn't to drop other issues. There has
15 been a focus on this QA/QC thing, because we
16 have seen a lot of those, and we do want to
17 get a handle on that. But part of that
18 question to SC&A to look at those other themes
19 was just that, to look at some of the
20 scientific findings that we may have seen over
21 the years.

22 CHAIRMAN MELIUS: Paul?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER ZIEMER: I think Dr.
2 Melius' points are well taken, and it would
3 seem to me that it makes sense at this time to
4 ask ourselves whether or not the process that
5 we are using is, in fact, doing what we want
6 it to do, and maybe even, in evaluating that,
7 to report to the Secretary on that.

8 I think we probably are due for
9 another report anyway. We are up to about 200
10 completions now with the ninth set. I think
11 it has been a little over 20 percent now, but
12 it seems to me that we report not only what
13 the findings have been, but whether or not our
14 process is effective and how we might be
15 changing it.

16 We do owe the Secretary something.
17 I don't know when the last report was, but it
18 seems to me it has been several years, and
19 dose reconstruction is our thing, in a sense,
20 and we have to critique, as you have
21 suggested, are we doing it the right way? Do
22 we need to change it? And then, how effective

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 has it bee, and what can we do to make it more
2 effective?

3 CHAIRMAN MELIUS: Yes. I agree,
4 Paul. And I think that one of the problems we
5 have gotten into is we have sort of dug a
6 little hole here. We are always catching up.
7 We keep assigning. We have SC&A doing these,
8 and we are, what, six behind or six sets or
9 five sets behind? I don't know.

10 So we always feel like we are not
11 quite ready to report to the Secretary yet,
12 because we are not sort of contemporary with
13 the program, which is a dynamic program.
14 There have been lots of changes in it, and I
15 think we need to catch up, not saying we
16 shouldn't report now or do that and make
17 changes, but I think let's examine it in that
18 context, that, yes, here is where we think we
19 are. This is what the results have been.
20 This is how we think we can do it better.

21 MEMBER ZIEMER: Right, and if we
22 are falling behind, we have to evaluate why is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that, and what can we do to improve that? The
2 workload, is it realistic or do we need more
3 resources or what do we need?

4 CHAIRMAN MELIUS: Yes. Is it at
5 the NIOSH end? Is it our end? Is it -- I
6 think let's reexamine that and, as a Board,
7 make a decision on what we should do. Yes,
8 Bill?

9 MEMBER FIELD: Yes. I was just
10 wondering. You have been doing this for 10
11 years now. I was just wondering, during this
12 whole process, has there been any substantial
13 changes that resulted from these reviews as
14 far as process or as far as review?

15 MEMBER GRIFFON: I think, along
16 the way, there have, yes.

17 MEMBER FIELD: Because I guess
18 that is part of it, is just, does this work or
19 not? Are things being addressed that are
20 deficiencies that are documented in the
21 process?

22 I know, going through these, a lot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of the things I see as maybe limitations are
2 not things that I found myself. It was SC&A
3 pointing them out to me, and then it is
4 whether or not you agree with what they say or
5 not, but I am not sure on my own how many of
6 these I would have seen. Probably few.

7 CHAIRMAN MELIUS: I think it is a
8 complicated program, and a lot of technical
9 information that goes into each of these dose
10 reconstructions, especially at the more
11 complicated sites. It is daunting, and lots
12 of issues to be dealt with there.

13 I think one of the hesitations we
14 have -- not to repeat myself -- is that it has
15 been dynamic in terms of the changes, and you
16 have the SEC reviews, you have the procedure
17 reviews going on. You have Site Profile
18 reviews. All of those feed in different ways
19 into the dose reconstruction process, and at
20 the same time the actual dose reconstruction
21 reviews are sort of trailing those by the
22 nature of the way we select cases and so

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 forth.

2 So I am not sure we are always
3 contemporary with that. That is why I think
4 not only do we have to rethink how we do the
5 dose reconstruction, but sort of how we pull
6 all that information together.

7 MEMBER FIELD: I think what has
8 really been helpful to me is just
9 understanding the process better. That has
10 been a big help.

11 CHAIRMAN MELIUS: Yes, Brad?

12 MEMBER CLAWSON: I was just going
13 to say, you know, from when I came in almost
14 five years ago, what I have seen in changes in
15 the dose reconstruction stuff -- it is real
16 hard to be able to say, well, we change this
17 and this and this. There's been lots of
18 little things that have come up about it, like
19 different Work Groups and so forth, tracking
20 what has been done.

21 I think we have made really -- I
22 think we have made a substantial difference,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and I think we have made it a lot better. But
2 I also agree with Paul that we need to look at
3 it as we have made these changes; now do we
4 need maybe to look at it from a little bit of
5 a different perspective?

6 To tell you the truth, I really
7 feel personally that it has made a lot of
8 difference, and it has been good for me to
9 understand how the process actually really has
10 worked.

11 CHAIRMAN MELIUS: Any other
12 comments? Okay. Thank you. Thank you, Mark.
13 Wanda, Procedures?

14 MEMBER MUNN: This will be a lot
15 shorter and much less detailed than that,
16 primarily because there has been no change at
17 all in what has transpired since our
18 teleconference, at which time I reported
19 briefly on where we were.

20 Procedures is at an interesting
21 point, because most of the Technical Basis
22 Documents and most of the crucial procedures

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that are necessary for the operations that we
2 have, have already been done, published, and
3 are well underway, with the action items that
4 result from the scrutiny that is given them.

5 As a result, a large number of the
6 action items that still remain in our database
7 are attached to documents or activities which
8 are no longer as pertinent as they once were.

9 That is to say, the documents have been
10 superseded or procedures have already been
11 changed.

12 That being the case, we have the
13 problem that has been discussed here quite
14 extensively with regard to resource
15 management, what we can do with what we have.

16 The pressures on our resources have made it
17 necessary for us to begin to extend the time
18 between our meetings.

19 We no longer meet on a very
20 regular basis every six weeks or so. It just
21 simply is necessary for us to have more time
22 to allow both the agency and our contractor to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 provide the materials that they need, because
2 of the demands on their time.

3 We are making significant
4 advances, I believe, with respect to our
5 electronic database. We will have, we hope,
6 by our next meeting one or two additional
7 items which we feel crucial for the operation
8 of the Subcommittee itself incorporated into
9 that database.

10 With any luck at all, in the next
11 very few weeks, we will be issuing our draft
12 agenda and action item for our upcoming
13 meeting, the next one of which will be April
14 11th.

15 I have no further information to
16 provide unless someone has questions.

17 CHAIRMAN MELIUS: Questions for
18 Wanda? MEMBER MUNN: Thank you.

19 CHAIRMAN MELIUS: Brookhaven?

20 MEMBER BEACH: You are going to be
21 hearing from us tomorrow --

22 CHAIRMAN MELIUS: This is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 preview, yes.

2 MEMBER BEACH: -- on the 83.14.
3 So I am not going to go over the Work Group
4 recommendations or anything on that today. I
5 am assuming we will address that tomorrow.
6 However, we had a meeting on February 21st.

7 Part of our discussion was on the
8 83.14. The other part of it was on -- we met
9 last year. I believe it was in January of
10 2011. We had 13 open action items from the ER
11 matrix. So we have asked NIOSH to look at
12 those and send out a report to the Work Group
13 on those open items to determine where they
14 still fall within looking at the 83.14 that we
15 are going to discuss tomorrow.

16 The other item we discussed is the
17 Site Profile issues. We had a report, I
18 believe, in 2009. We identified -- or SC&A
19 identified 12 Site Profile issues, and so we
20 have asked NIOSH to take a look at part of
21 those.

22 Most of them actually fell to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 NIOSH, and some of them to SC&A to actually
2 review those and see again where they fall
3 based on the 83.14, and that is where we are
4 at now.

5 We are waiting for NIOSH to report
6 back on their issues and decide when we can
7 meet again in the future. So, hopefully, what
8 did you say, Wanda, in the next six months?

9 MEMBER MUNN: I would think so,
10 based on our expectations of the agency and
11 the contractor.

12 MEMBER BEACH: So while we have an
13 83.14 before us, we do have more work that the
14 Work Group is still ready to complete.

15 CHAIRMAN MELIUS: Questions for
16 Josie? Thank you. Fernald? I guess, again,
17 a preview.

18 MEMBER CLAWSON: We met on
19 February 9th and, as many of you have seen, we
20 have sent out numerous reading materials for
21 you to review.

22 We are coming to an end with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Fernald, and this is why we have sent out --
2 we hope. Okay, we are trying to come to an end
3 with Fernald. Part of the issue is it is a
4 very difficult site, and we are working
5 through it.

6 At the last meeting, some of the
7 information really didn't get to the Work
8 Group in time to be able to have either side
9 to be able to review it again. That was on
10 both sides, but those papers have been sent
11 out to you for you to be able to review, and
12 personally, I think you will enjoy it
13 tomorrow, but it is -- in my sentiments, it is
14 coming to an end. You'll enjoy it.

15 CHAIRMAN MELIUS: The end is near.
16 The end of something is near.

17 Hanford is mine. I'll do that and
18 I will probably ask Arjun to help me a little
19 bit on this one. We are juggling -- there is
20 some ongoing work that NIOSH is doing out at
21 Hanford. We have sort of a
22 combined SEC that we have been working on that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we have been in the process of updating
2 information on, and then we have a new,
3 relatively newer SEC that we have been working
4 on, and recently completed some interviews out
5 there. I don't know if they have been sort of
6 cleared yet or where those stand, but we are
7 expecting we will do a Work Group meeting
8 coming up, I think, in the next month or two,
9 certainly before the June meeting, and be able
10 to report back then on where we are. It is
11 juggling a lot of schedules here.

12 Is that a fair assessment, Arjun?

13 DR. MAKHIJANI: Yes, Dr. Melius,
14 that is a fair assessment. We interviewed the
15 petitioner and his representative on the SEC
16 155, and the petitioner, as you know, asked us
17 to review certain documents, some of which you
18 forwarded to me.

19 In reviewing that and preparing
20 for this meeting, I believe that we should try
21 to contact one of the auditors who reviewed
22 bioassay information, and I will try to find

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 out that contact information. I just did that
2 in preparation for this meeting. So I haven't
3 had time to do that. But I am reasonably
4 confident that we should be able to have
5 sufficient information for a Work Group
6 meeting.

7 The report is pretty much done
8 except for the integration of the interviews
9 into the report.

10 CHAIRMAN MELIUS: Okay, good.
11 Yes?

12 MR. RUTHERFORD: Yes, Dr. Melius.
13 I wanted to add, too, since you are on
14 Hanford, we are going to be -- an 83.14 will
15 be moving forward with Hanford as well for the
16 June meeting.

17 CHAIRMAN MELIUS: Okay. Do you
18 know when that report will come out? I am
19 just trying to think in terms of scheduling.

20 MR. RUTHERFORD: May.

21 CHAIRMAN MELIUS: May? Okay. For
22 those of you who are on the Hanford Work Group

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 with me, we may plan on two meetings,
2 depending on -- trying to figure out the
3 workload and trying to keep some of these
4 issues separated, because it is a fair amount
5 of stuff to go over, I believe. Good. Okay.
6 Idaho?

7 MEMBER SCHOFIELD: Idaho? There
8 is some updates being worked on.

9 CHAIRMAN MELIUS: And when LANL
10 comes up, I will look at you.

11 MEMBER SCHOFIELD: On some of the
12 documents, the TBD documents, there has been
13 some updating done. When that will be done is
14 up in the air.

15 CHAIRMAN MELIUS: Well, what do we
16 have on the schedule for -- have you had a
17 chance to look at the schedule that NIOSH put
18 out?

19 MEMBER SCHOFIELD: Yes. It is the
20 end of March.

21 CHAIRMAN MELIUS: Okay, in March.
22 So you think, if we get that in March -- what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is your thinking in terms of response to that?

2 MEMBER SCHOFIELD: Probably latter
3 part of May or so.

4 CHAIRMAN MELIUS: Okay, thanks.
5 Any questions on Idaho? The K-25 Work Group?

6 MEMBER SCHOFIELD: Gaseous
7 Diffusion Plants?

8 CHAIRMAN MELIUS: I call it the K-
9 25. I'm sorry.

10 MEMBER SCHOFIELD: Yes, we met,
11 and we have actually closed quite a few of the
12 items. So we do need to get back together and
13 finish it out. We have made a lot of progress
14 there.

15 CHAIRMAN MELIUS: Okay. I think,
16 for these which are -- again, it is their Site
17 Profile reviews. I think when you are getting
18 ready to close out or close to it, it probably
19 would be good to have a presentation to the
20 Board, because, really, it should be the Board
21 closing out these issues, not just the Work
22 Group, and we tend to focus so much on the SEC

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 portions of them that we don't -- we tend to
2 put off Site Profile issues, but since you are
3 making progress on these, I think it would be
4 helpful if you can plan on that when you are
5 ready. Thank you.

6 MEMBER SCHOFIELD: I'll make sure
7 next time there's something to present.

8 CHAIRMAN MELIUS: Well, no. Not
9 here. I think we will set some time aside at a
10 Board meeting between NIOSH, SC&A and the Work
11 Group. We should spend some time on them, and
12 make sure there aren't issues that people have
13 questions about. I actually think it helps
14 the other Work Groups also in terms of dealing
15 with these.

16 Lawrence Berkeley -- I think we
17 have a presentation coming up. So, Paul, I
18 don't think we need to say much. Linde?

19 MEMBER ROESSLER: The Linde Work
20 Group has finished its SEC business, and now
21 we are working on TBD issues. We have
22 resolved everything except those that are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 related to the utility tunnels at Linde.

2 Our big questions that we are
3 trying to address is when were they built and
4 what should the occupancy factors be for them.
5 The Work Group looked at some construction
6 drawings at our face to face meeting on
7 January 30th, and then later these drawings
8 were looked at in detail by SC&A and the
9 claimant representative. Then we had a
10 teleconference to discuss this on February
11 15th.

12 We think these diagrams establish
13 the dates as to what tunnels were there at
14 certain times. However, we want to really
15 make sure of this. So we are trying to gather
16 some of the Linde workers for a meeting in
17 Buffalo, and interested parties will be there,
18 so that they can look at them, and we can have
19 a discussion about the tunnels.

20 So we hope to have this set up. I
21 don't think it is set up yet, but we hope to
22 have this meeting with the workers in Buffalo.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN MELIUS: It has been a
2 mild winter in Buffalo.

3 MEMBER ROESSLER: Yes, so far. It
4 was so far in Minnesota, too, and now it is
5 getting dumped on.

6 MEMBER MUNN: Winter isn't over.

7 CHAIRMAN MELIUS: It is not quite
8 over with. You are right. Good. Los Alamos?
9 I think we talked a little bit about that
10 earlier. I guess I am trying to understand
11 the schedule now if NIOSH gets this additional
12 information. You are nodding your head, Jim -
13 - or LaVon. I am not sure who is -- I am just
14 concerned. We are going to be out there in
15 June. We are going to be on the spot.

16 DR. NETON: Yes. I have an update
17 from Greg Macievic, who is our point of
18 contact for Los Alamos review. They are out
19 there, as you know, right now doing a data
20 capture effort. When they finish this data
21 capture effort, they feel that they will be
22 able to finish their review. It should answer

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 most of the questions they have.

2 They are tentatively looking at
3 sometime around the third week of April for a
4 Work Group meeting.

5 MEMBER GRIFFON: Okay. That is an
6 update from what I had. I guess one concern
7 we have is there was a long delay, and we
8 heard about that earlier, with getting access
9 to the documents. I think that the initial
10 sort of request was viewed from the site
11 standpoint as being too broad.

12 Apparently, they had a conference
13 call, and might have come to terms on this. I
14 am not sure SC&A was in that loop. I don't
15 think they were. So I am not sure what they
16 are going to come out of this data capture
17 effort with and whether it is really going to
18 answer all the questions, but we have the same
19 concern, that we want to have a meeting far
20 enough in advance of the June meeting to be
21 able to say something in the June meeting.

22 CHAIRMAN MELIUS: Is there -- on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the top of my head, but tell me if it is a bad
2 idea. But is there some way we can put SC&A
3 in touch with NIOSH sooner rather than later
4 to make sure that the information we are
5 getting is as complete for everybody as
6 possible?

7 There is always -- you don't know
8 until you have seen and interpreted. So I
9 don't want to overdo it, but I just hate to
10 get to the end of April or the report comes
11 out, and say, well, we don't have this
12 information.

13 DR. NETON: Right. I have a
14 further note from Greg that says he has
15 notified SC&A of these data capture efforts,
16 and that he will send them responses to the
17 action items as they finish them, and not to
18 wait until just before the Work Group meeting
19 to dump them on them.

20 CHAIRMAN MELIUS: Okay. So
21 essentially, the White Paper.

22 DR. NETON: As we complete them,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they will be trickled over, I guess, as
2 opposed to having them dumped on in a whole
3 series of things.

4 CHAIRMAN MELIUS: Joe is behind
5 you.

6 MR. FITZGERALD: I am right behind
7 you. Greg and I have been in contact, and I
8 certainly empathize with him in terms of
9 trying to get anything quickly out at the lab,
10 but what we are going to be doing -- and I
11 have been there before. What we have been
12 doing is, in real time, as he gets
13 information, he is going to be in contact with
14 me, and we are going to try to do this as much
15 as possible in parallel.

16 So we are not going to do one of
17 these serial things. So we are going to try
18 to make up some time and push this thing
19 along.

20 CHAIRMAN MELIUS: Okay, excellent.
21 Appreciate it. Joe, we noticed you smiling
22 during the earlier discussions of DOE, when we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 were talking about Los Alamos.

2 MR. FITZGERALD: I have been where
3 Greg is now, and trying from a Headquarters
4 standpoint to move a national lab is always
5 interesting.

6 CHAIRMAN MELIUS: It is
7 challenging, to put it politely. Good.

8 MEMBER GRIFFON: Third week in
9 April, hopefully.

10 CHAIRMAN MELIUS: Yes. Mound.
11 Mound will be our last one.

12 MEMBER BEACH: Mound last met on
13 November 7, 2011, for a Work Group meeting.
14 We then met in Germantown on January 6th.

15 There are three issues that we are
16 still working on: radon; data adequacy and
17 completeness; and tritides. The same three
18 issues we have been working on for the past
19 year. There are some small pieces of each one
20 of those that the Work Group is waiting for
21 White Papers from NIOSH and SC&A.

22 On the radon issue, we are looking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 at drawings right now between R/SW. There are
2 some parts within data adequacy and
3 completeness that we are waiting for NIOSH. A
4 thorium issue is one of them, and then some
5 earlier time periods.

6 The other issue, the tritides,
7 SC&A does have a White Paper that is due to
8 the Work Group mid-March, and I understand
9 from Joe that we should have that within the
10 next couple of weeks.

11 Beyond that, our next Work Group
12 meeting is scheduled for April 10th, and I do
13 hope to have all those pieces put together so
14 we can give a full report at our June face to
15 face Board meeting.

16 CHAIRMAN MELIUS: Okay. And
17 resolved?

18 MEMBER BEACH: Yes, and resolved.
19 That is what we are shooting for.

20 CHAIRMAN MELIUS: You may convince
21 us to spend three days in Santa Fe.

22 We will come back to some further

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Work Group and -- we have done our
2 Subcommittee, so further Work Group reports
3 tomorrow.

4 We have a presentation now. This
5 is Sam Glover day, I guess, here. Hangar 481.

6 Don't worry, LaVon. We haven't
7 forgotten about you.

8 DR. GLOVER: Are we ready?

9 CHAIRMAN MELIUS: We are ready, if
10 you are, yes.

11 DR. GLOVER: We have it up. I
12 believe the petitioner has provided us also a
13 presentation they would like to provide, and
14 we have that on a memory stick that we will
15 load when you guys are ready.

16 I am going to present just a brief
17 update. We have presented Hangar 481 several
18 times, but just to kind of refresh everybody's
19 memory, it has been a little while.

20 This is Hangar 481. It was also
21 known as Ross Aviation to some folks who were
22 -- it was a company that did some of this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 work. We are just going to very briefly walk
2 through some of this, if it responds. I am
3 afraid if I push the process, I will break
4 something.

5 CHAIRMAN MELIUS: Talk slow.

6 DR. GLOVER: Talk slowly. That,
7 with the encrypted drive in at the same time
8 is making it very slow. There we go. Okay.

9 Very briefly, Hangar 481 is
10 located at Kirtland Air Force Base in
11 Albuquerque. Ross Aviation operated Hangar
12 481 during the covered period. They actually
13 began around 1970 or even before that, and
14 they continued much later, but I will say that
15 the type of contract -- the covered period is
16 determined to be a fairly narrow time frame --
17 provided air transportation of personnel and
18 equipment as using government owned aircraft
19 at government owned facilities, especially
20 with Department of Energy operations at Sandia
21 National Laboratories as well as others.

22 They transported equipment,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 including packages, including radioactive
2 materials associated with the atomic weapons
3 program.

4 This petition was received
5 February 27, 2009, and it is an 83.13.
6 September 8, 2009, it qualified. December 18,
7 2009, an Evaluation Report was issued. We
8 presented at the February 2010 Advisory Board
9 meeting.

10 A delay was requested at that
11 time, by the petitioner, until Freedom of
12 Information Act material could be provided to
13 him. By July 2010, that FOIA had been
14 completed, both by DOE and NIOSH. September
15 23, 2010, a revised Evaluation Report was
16 issued. It was issued with a fairly minor
17 change in that we had gotten a picture wrong.

18 So we chose to go ahead and update it at that
19 time.

20 We re-presented at that time to
21 the Advisory Board meeting for the November
22 2010. On November 3, 2010, the petitioner

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 submitted a FOIA request for information that
2 was not in NIOSH's possession at the time. So
3 we can't respond, obviously, to information
4 that is not in our possession.

5 January 21, 2011, the FOIA Office
6 responded to the November 3rd request,
7 explaining the material will not be in our
8 possession for some time as they are being
9 reviewed by Department of Energy, and that a
10 FOIA should be resubmitted in June of 2011.

11 In January 2011, NIOSH,
12 petitioners, as well as other Members of the
13 Board got a very nice tour of Hangar 481 by
14 Department of Energy and Office of Secure
15 Transport. They walked us through the entire
16 facility. I think in other cases I have shown
17 some photos, and certainly provided those to
18 the Board.

19 June 2011 the Office of Secure
20 Transport responded to questions provided by
21 both NIOSH as well as the petitioner. In
22 August 2011 an addendum to the Evaluation

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Report was issued for Hangar 481, and we re-
2 presented again in August 2011 at the Advisory
3 Board meeting.

4 The petitioner requested an
5 extension of the matter from the Board, so the
6 FOIA request should be submitted. October
7 2011 the petitioner submits an official FOIA
8 request, and in November withdrew that FOIA
9 request.

10 In February 2012, we provided a
11 brief summary to the Advisory Board for your
12 consideration. We believe that all concerns
13 expressed by the Advisory Board in these
14 various meetings have been addressed. We know
15 of no open issue that the Advisory Board has
16 raised.

17 Summary of the external dose
18 feasibility. External dose records exist for
19 many Ross Aviation personnel, and the REIRS
20 reported data had been verified using Eberline
21 data from 1990 to 1994.

22 Data from the 1994 REIRS report

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was found to be incorrectly entered into the
2 database -- we had a disparity; it didn't make
3 sense -- in which they actually had entered
4 the lifetime total instead of the annual dose.

5 That has been corrected in this addendum, and
6 the Department of Energy was notified as part
7 of that.

8 Individual results from these
9 records. We used the highest dose received to
10 estimate dose for all personnel at Ross
11 Aviation. I didn't show the graph in this and
12 go back to that. The slides are available,
13 but that is in the order of around 70 millirem
14 a year, is the highest dose received in any
15 one year, and that is irrespective of where
16 they were or what activity.

17 There are things that are done on
18 the hot pads, and there are some different
19 discussions that have occurred, but there was
20 a fairly significant amount who were
21 monitored, including people who had
22 nondestructive testing analysis. We used

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 those results for everyone.

2 So we did not get data from 1996.

3 There was like a one month or one and a half
4 month period which was not covered. In that
5 case, we are going to use the highest annual
6 dose from previous years for that two-month
7 period. So again, we are using the highest
8 dose received in the entire year previously to
9 bound any external dose for all employees.

10 The circumstances and locations
11 related to a pilot's locker in radiographic
12 activities which are done off-hours. There is
13 a nondestructive testing of the planes that
14 was done off-hours at Hangar 481.

15 We believe that -- the subsequent
16 discussion is that where the lockers are, it
17 is near the plane. There was an elevated
18 reading that was described, and that the pilot
19 left the badge in the locker during the
20 nondestructive testing analysis.

21 For this facility, we don't really
22 see there is any credible potential for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 neutron exposures. Potential doses from off-
2 hour radiographic testing would have been
3 included in the reported personal monitoring
4 data.

5 The ambient environmental external
6 doses are included by using the existing
7 personal monitoring. So we don't have to --
8 since we are using that for everyone, there is
9 no reason to have an environmental external
10 dose model. X-ray examinations for personnel
11 are not included because medical X-rays were
12 not performed on site at Hangar 481.

13 Regarding internal dose
14 feasibility, we believe no radioactivity was
15 stored or handled at Hangar 481. Radioactive
16 materials that were handled by workers at
17 Hangar 481 were in sealed Department of
18 Transportation compliant containers, and
19 monitored in accordance with DOT regulations
20 to verify radiation and contamination levels.

21 We have results, certainly not of
22 all of those, but of available radiological

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 surveys performed on these packages, and
2 transport aircraft support this premise. So
3 the records that are available to us support
4 that it was under control. Whether that
5 happened in the hangar or on a hot pad, it
6 seems that the facility and the operations
7 were controlled.

8 There was no bioassay. There is
9 no bioassay program for these people. There
10 was no wipe data taken, other than what Sandia
11 -- or before it would have come on site, you
12 know, the facility who would have done it. So
13 we have no records other than what Sandia
14 generated, but not -- there are records of the
15 plane being surveyed annually or at some
16 infrequent basis, but they also came up
17 without any contamination.

18 So based on available information
19 on the radiological program and potential for
20 internal exposure sources, NIOSH concludes
21 that internal radiological exposures to Ross
22 Aviation employees resulting from services

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 rendered for the DOE at Hangar 481 are
2 unlikely to have occurred.

3 Sandia National Laboratory, being
4 an adjacent facility, was used to provide a
5 bounding estimate of the dose from ambient
6 environmental internal dose during this
7 period. Sandia does not have a large ambient
8 environmental dose. However, we felt that, it
9 being co-located in the same area, it would be
10 an appropriate bounding evaluation.

11 So the summary is that we believe
12 internal and external for this time period,
13 beta gamma, occupational medical X-rays as
14 well as internal is feasible.

15 CHAIRMAN MELIUS: Questions for
16 Sam. Yes, Bill.

17 MEMBER FIELD: Sam, you mentioned
18 there were surveys done in the containers on
19 the outside for contamination.

20 DR. GLOVER: Yes, sir.

21 MEMBER FIELD: Were you able to
22 see any of those reports? I'm just wondering

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 how they were done. Do you know if they were
2 -- because you said there was no swipe data.

3 DR. GLOVER: It would have been,
4 as they left Sandia, we have records showing
5 what their wipes were as it was transported
6 off site.

7 MEMBER FIELD: Okay. So you have
8 wipes. Did you see any evidence of
9 contamination?

10 DR. GLOVER: The results that I
11 recall and have seen -- I haven't looked at
12 them in the last -- very shortly, but
13 everything seemed to be compliant. You know,
14 it wouldn't have been able to get off site.
15 Sandia had to meet the requirements to get it
16 off the facility.

17 MEMBER FIELD: Just wanted to
18 check. CHAIRMAN MELIUS: Any
19 other? Yes, Brad?

20 MEMBER CLAWSON: I think Sam
21 already knows what my issue is. It is because
22 of the law that we can only claim Hangar 481.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Is that correct? Because it is a facility?

2 Here is my issue. These planes
3 were owned by DOE. They flew for DOE, and we
4 can't claim that because it is not a facility.

5 DR. GLOVER: And what you are
6 talking about is when they are in the flights,
7 if there were other exposures that occurred as
8 they traveled to other countries or other
9 activities. It is really when they are at
10 Hangar 481 is when it is at the covered
11 facility. Otherwise, they would be under the
12 courier effect, like you had for Savannah
13 River. So that is correct. But the pilots
14 were badged, and their results are being used
15 as part of our analysis. So we haven't tried
16 to parse that.

17 MEMBER CLAWSON: Okay, because you
18 said about the swipe data on the containers
19 and so forth. Did they have a dose rate on
20 those containers, too, along with that swipe
21 information?

22 DR. GLOVER: It would have had an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 external dose rate registered on it. That is
2 correct.

3 CHAIRMAN MELIUS: Paul?

4 MEMBER ZIEMER: Just a
5 technicality. You say you can reconstruct
6 internal dose -- yes, internal -- that you can
7 reconstruct it. In reality, it is not
8 applicable, I think, is more correct, because
9 you are not going to reconstruct any, are you?

10 DR. GLOVER: We are assigning zero
11 except that we are assigning ambient dose from
12 the site.

13 MEMBER ZIEMER: I got you.

14 DR. GLOVER Yes, sir.

15 CHAIRMAN MELIUS: Any other Board
16 Member questions? I believe that we may have
17 the petitioner or petitioner representative on
18 the line.

19 MR. ARMIJO: Yes, that is correct.

20 This is Roberto Armijo.

21 CHAIRMAN MELIUS: Okay. Sir, we
22 have received your written communication to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the Board, and that has been distributed to
2 all of the Board Members. So if you wish to
3 speak and summarize that or I don't know if
4 there are other points that you would like to
5 make, go ahead.

6 MR. ARMIJO: Yes, and I am here at
7 my office location with the petitioner,
8 [Identifying information redacted], and we did
9 submit a letter to the Board on February 22nd
10 after receipt of notification that this
11 meeting would be held.

12 Earlier today I emailed a
13 PowerPoint presentation to Dr. Glover and Mr.
14 Kinman which, I understand, is on their
15 computer, and they may have transferred that
16 to the folks that are there in attendance.

17 I apologize that resources
18 wouldn't allow me to be present, but if that
19 presentation is available and could be somehow
20 displayed, it may -- I would like to just
21 simply walk through it, and maybe that would
22 help to underscore the points that we tried to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 make in the letter submission.

2 CHAIRMAN MELIUS: That would be
3 fine, and that presentation is now up, but our
4 computer here is a little slow, but I think it
5 should -- do you want to move it forward?
6 Okay, we are okay. So go ahead. We are on
7 the title slide now.

8 MR. ARMIJO: Okay. What I will do
9 then is I will just simply ask if we move to
10 each slide, and I will try to move through the
11 first several of these quickly because it
12 pretty much duplicates what Dr. Glover just
13 said. But I think it is important to keep
14 some of the points in mind. So I would like
15 to go through them in sequence.

16 So if we go to the second slide,
17 the Hanger 481 site history, it is indeed
18 located on Kirtland Air Force Base here in
19 Albuquerque, and it has been located there
20 since 1984.

21 Dr. Glover pointed out that Ross
22 Aviation had been in operation all the way

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 back to 1970 and possibly before, and indeed
2 there are contracts with DOE or its
3 predecessors all the way back to that time
4 that Dr. Glover was good enough to locate and
5 share with us early on.

6 The 1984 date, though, would be
7 when the facility was moved to Kirtland Air
8 Force Base, and although we don't know all the
9 reasons for that, I believe that that was due,
10 in part, to security concerns that might be
11 better addressed on the Air Force Base than at
12 the prior location which was located at the
13 west end of the -- generally, the west end of
14 the normal airport here in Albuquerque.

15 Ross Aviation actually conducted
16 its operations and they were based out of this
17 Hangar 481 during the entire period we are
18 talking about and even before, and through
19 this entire period, of course, as I think it
20 is well understood, they had contractual
21 agreements with DOE.

22 It served as the base of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 operations for this air transportation of
2 personnel, equipment, and radioactive
3 materials associated with the atomic weapons
4 program.

5 If we can move to the third slide.

6 Dr. Glover, I think, went ahead and
7 summarized these dates. This SEC petition has
8 been on file since February of 2009. It
9 actually qualified for evaluation in September
10 of 2009, and an Evaluation Report was issued
11 fairly promptly after that in December of
12 2009.

13 We did attend or participate in a
14 hearing conducted on February 10th of 2010,
15 and we did request the opportunity to present
16 a FOIA request at that time to obtain
17 information, as Dr. Glover indicated really
18 wasn't available.

19 September 10th of 2010, there was
20 a revised Evaluation Report issued with an
21 updated photo, and that probably would be the
22 photo of the hangar over on Hangar Air Force

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Base 481. The Evaluation Report was
2 presented, as shown on Slide 4, at a meeting
3 in November 2010, and at that time it was
4 noted that there was some information that
5 still was not available and needed to be
6 available to really fully review what was
7 happening with this petition.

8 Moving to Slide 5, January 21st of
9 2011, the FOIA Office of the Center for
10 Disease Control reportedly responded that the
11 November 3rd request for information made by
12 NIOSH could not really be in their possession
13 until the materials were reviewed by the
14 Department of Energy, and at that time it was
15 expected that those materials, as far as the
16 review is concerned, would not be really
17 available until June of 2011.

18 So in this instance, the
19 petitioner has been trying to stay with the
20 process, but this process has been ongoing
21 and, as time has gone by, fairly significant
22 volumes of documentation were located, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 then there needed to be time to digest the
2 information and I think, as will be shown in
3 my presentation, in spite of the information
4 that has been located to date, there is still
5 more to be done.

6 Now in January of 2011, NIOSH
7 invited myself and [Identifying information
8 redacted] to attend a tour of Hangar 481 that
9 was sponsored, as Dr. Glover said. We were
10 given the opportunity to view things, and Dr.
11 Glover took numerous pictures, including
12 pictures of the outbuildings that had warnings
13 on them of various types of toxic materials
14 that may be present or had been present in the
15 past, and containing a significant amount of
16 industrial type maintenance equipment that
17 either was present or that there was evidence
18 of its presence in the past.

19 Those photographs, I think, have
20 been shared with the Board, and we were
21 cautioned, although we would turn in
22 questions, that the -- we were cautioned about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 security concerns related to observations and
2 information, which we fully respected, and
3 appreciated the opportunity to see what was
4 present.

5 Time passed, and in June, on Slide
6 6, responses were reportedly provided by the
7 Office of Secure Transport to NIOSH, which
8 then precipitated in August of 2011 the
9 addendum to the Evaluation Report for Hangar
10 487.

11 It happened fairly close to the
12 Advisory Board meeting scheduled in August,
13 and we had access to that addendum in August,
14 and the Evaluation Report was presented to the
15 Advisory Board recommending basically to deny
16 our petition at that time.

17 Turning to Slide 7, we did request
18 an extension of the matter from the Board so
19 that a FOIA request could be submitted, and it
20 took us a while to kind of figure out what we
21 were doing, but in October of 2011 we did
22 submit an official FOIA request.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Fairly promptly after that FOIA
2 request, which basically went through the list
3 of assertions and representations that were
4 made in the August report, we were informed by
5 the U.S. Department of Health and Human
6 Services, Public Health Service, Centers of
7 Disease Control, CDC, that the petitioner was
8 and is being classified as a Category 1
9 requester and was, or will -- was to be
10 charged for duplication, search time, and
11 review time.

12 As a result of discussions on page
13 8, Slide 8, we were informed by a NIOSH
14 representative that our FOIA requests were
15 going to require extensive efforts to locate
16 responsive information and may entail the
17 compilation of documentation estimated to be
18 in the range of 25,000 pages.

19 As noted in the letter that I
20 turned in as an attachment to the submission
21 we made on February 22nd, our resources and
22 what is available to myself in representation

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of the individual who happens to be the
2 petitioner in this case simply did not include
3 a budget for that type of a process.

4 In my mind, I felt that it
5 wouldn't be fair to say, well, go ahead and do
6 that, and then get a bill and say, well, we
7 can't and won't pay that, and in honesty and
8 in due respect of what may have been an over-
9 request, we withdrew the petition because of
10 economic reasons, and I feel we were forced to
11 do that.

12 We felt that there indeed was
13 documentation we needed to review in order to
14 verify the accuracy of the statements that
15 were made by the OST to NIOSH, and we are not
16 questioning the honesty of it, but I think, as
17 some of the questions that have just been
18 posed allude to, there is a need to know that
19 indeed there were the different types of
20 sweeps and information done to satisfy the
21 concern that the information available was
22 indeed genuine, accurate, and reliable to base

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a decision on that there was sufficient
2 evidence available to determine what the dose
3 exposures may have been of the workers at
4 Hangar 481.

5 Here, even though I think that the
6 operations of Ross Aviation were broader than
7 just the hangar building, and our site
8 inspection indicated that the flight lines and
9 outbuildings and so forth and the like
10 contemplated a larger area, we are limited --
11 unfortunately, the way this was set up as far
12 as a site -- to the building itself.

13 Moving to Slide Number 9, insofar
14 as the petition overview is concerned, NIOSH
15 provides now a brief summary to the Advisory
16 Board for your consideration. Now they state
17 that they believe that the concerns expressed
18 by the Advisory Board have been addressed, but
19 respectfully, the petitioner believes that the
20 concerns expressed by the Advisory Board and
21 the views held by the petitioner have not yet
22 been addressed.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Slide Number 10 then gets to the
2 summary of the petitioner's concerns. I have
3 tried to crystallize this down to some points
4 that I think need to be made. There is other
5 details, I think, that are also important.

6 The U.S. Department of Labor is
7 the agency, as shown on Slide 10, that has the
8 responsibility for the processing and
9 adjudication, if you will, of claims under the
10 Energy Employees Occupational Illness
11 Compensation Program Act. It is a mouthful,
12 and I will just call it the Act.

13 Those records reflect a total of
14 nine unique individual workers at Hangar 481
15 have actually filed 16 cases under the Act,
16 and we believe that that is significant.

17 The DOL statistics also show that
18 one Hangar 481 worker has been compensated
19 under Part B of the Act. Now we recognize
20 that there may be plenty of people that work
21 in different places, and in support of the
22 letter dated February 21st we attached a DOL

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 summary sheet that shows the number of claims
2 filed and that, in fact, one person at Hangar
3 481 was able to establish eligibility under
4 Part B.

5 As I believe most of the Advisory
6 Board Members are aware, the Part B claims are
7 primarily claims based upon radiation
8 exposure. I would contend, and the petitioner
9 would contend that the mere existence of nine
10 cases, presumably of cancer -- I am
11 specifically involved with three former
12 employees of Ross Aviation where cancer is the
13 condition -- suggests that certainly a
14 suspicion that there would be radiation
15 exposure in the workplace; and the fact that
16 one of those claims has actually been
17 adjudicated and compensated would seem to
18 underscore the inference that we have that the
19 existence of those claims would certainly
20 suggest that there is an issue of potential
21 exposure.

22 Turning to Slide Number 11 to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 continue with the petitioner's concerns, the
2 petitioner presented two statements of Hangar
3 481 workers that deliveries of packages
4 believed to contain radioactive materials were
5 made to the flight line at Hangar 481 by
6 guards and badged personnel from Sandia
7 National Labs to be loaded and stowed on
8 aircraft for transport, and these statements
9 differ significantly with OST's statements to
10 NIOSH that such deliveries were never made to
11 the hangar location.

12 Turning to Slide 12. And we don't
13 know who those persons are or what the basis
14 for the OST assertions are that these packages
15 were never delivered to the flight line.

16 Given the insistence on the fact
17 that the radioactive materials would have been
18 always loaded and stowed at the hot pads, when
19 there are two former workers who have provided
20 clear statements, and again copies of those
21 are in the submission of February 22, 2012,
22 seems to be an inconsistency by itself that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 would mandate further investigations of what
2 was going on at Hangar 481.

3 The petitioners question the OST
4 position also that deliveries to the flight
5 line adjacent to the Hangar 481, as opposed to
6 the hot pads, would have been a security
7 violation. Harkening back to the earlier
8 history of Ross Aviation activities that were
9 conducted out of that other place at the west
10 end of the airport, these activities were
11 moved to Hangar 481 in the year 1984, and from
12 that time forward that was the base of
13 operations on Kirtland Air Force Base.

14 I would question why there would
15 be, quote, "a security violation," since all
16 three areas, the two hot pads and the Air
17 Force Base hangar, were all three on the Air
18 Force Base.

19 One of the things that we asked
20 for would be information to back up that
21 statement that there would have been a
22 security violation. If, as has been proposed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 by OST, there was a security violation to have
2 delivered these packages to the flight line at
3 the hangar as opposed to the hot pads, then I
4 think that it makes their position on exposure
5 suspect, if there was indeed that security
6 violation.

7 I don't say that there was and
8 don't know one way or the other whether there
9 was. All I know is that two former workers of
10 Hangar 481 said that they did load and store
11 guarded packages onto airplanes on the flight
12 line adjacent to Hangar 481 and not at the hot
13 pads. And one of the statements that we
14 turned in indicated that, generally,
15 explosives would be loaded at the hot pads,
16 but that the radioactive packages would be
17 delivered to the airplanes on the flight line.

18 Obviously, it can't be both ways,
19 and if the people we talked to are correct, I
20 think that that does raise a serious question
21 that needs further inquiry before an adverse
22 action would be taken concerning the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 petitioner's concerns and petition.

2 Turning to the Slide 13. The
3 petitioner also questions OST position that
4 deliveries to the flight line never occurred
5 because of the absence of Ross Aviation
6 records or other disclosed records to support
7 that position or assertion.

8 One of the documents that we
9 attached to the letter of February 22nd was an
10 oral interview, unsworn, of a former employee
11 of Ross Aviation who reports, I believe, that
12 in the year 2008 after Ross had lost its
13 contract, he observed the Ross personnel
14 shredding and destroying the records of Ross's
15 operations. And when asked why they were
16 doing that, in the statement obtained by NIOSH
17 and provided to us in one of the earlier
18 productions of documents, and before the Board
19 is an attachment to my letter, that employee
20 said that he was told to mind his own
21 business.

22 Now some of the contracts and the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 documentation for this is attached to the
2 affidavit of the worker identified in our
3 February 22nd letter. It is in the affidavit
4 which is part of the file, and the full text
5 of which has been previously submitted as one
6 of the attachments indicates documentation for
7 our position, and those statements are
8 reflected in basically an excerpt from the
9 contracts that declared that those records or
10 portions of those records were DOE property
11 that would need to be surrendered to DOE or
12 otherwise given authorization for disposition.

13 It has never been established
14 whether those records were destroyed and
15 shredded with the consent of DOE or in
16 compliance with the contract declaring those
17 portions of the records to be DOE property.

18 Continuing with the petition's
19 concerns on page 14 -- and this is something
20 that may not necessarily be in the record, but
21 I needed to state it because it came to my
22 attention. A former worker whose dose records

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 were provided to DOL in connection with the
2 worker's pending claim under the Act included
3 reported dose measurements that included a
4 couple of measurements at Paducah on two of
5 the specific flights.

6 It turned out that these two dates
7 fell outside of the worker's time in service,
8 which caused them concern of the accuracy of
9 the reported dose information.

10 The first of those dose reports
11 that I am referring to was for the date of May
12 [Identifying information redacted] of 1996,
13 which as to this specific worker fell during a
14 term when the worker was furloughed. The
15 dates of furlough were May [Identifying
16 information redacted] to June [Identifying
17 information redacted] of 1996. The worker was
18 not flying, and yet the dose records for that
19 worker reflected the worker had been at
20 Paducah, and there was a measurement of May
21 [Identifying information redacted] of 1996.

22 The second of those dates was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 September [Identifying information redacted]
2 of 1996, and again that fell outside of the
3 term of this worker's work, because the last
4 day that that worker had worked for Ross
5 Aviation was August [Identifying information
6 redacted] of 1996, several weeks before the
7 date of the reported dosage noted at Paducah.

8 These dose records would be good
9 for this person because they would show
10 additional exposure that may ultimately allow
11 the recognition of that claim. The problem is
12 that both of them fell outside of the dates
13 that the worker actually was employed by Ross
14 or would have had any way to be at those
15 locations.

16 The significance of that for the
17 purpose of the Special Exposure Cohort
18 petition is that that information, I think,
19 causes the petitioner to express concern as to
20 the validity of the data itself. Again,
21 nothing that I am saying is to criticize or to
22 accuse anyone of any wrongdoing, but instead

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 it raises questions about the validity of the
2 data that is being presented to NIOSH and then
3 reported to this Board as the grounds to deny
4 this petition.

5 Now moving on to Slide 15, one of
6 the concerns that we have is that SEC
7 petitioners are given the burden of proof,
8 notwithstanding that former workers complied
9 with privacy concerns and, in most cases, are
10 really not in possession of documentation to
11 support claims.

12 So in a way, petitioners like
13 [Identifying information redacted] whose wife
14 worked at Hangar 481 and who died of cancer
15 after that employment, are on the outside
16 looking in and trying to locate information
17 that would not necessarily have been known to
18 them and would have been improper for the
19 worker to have revealed to them.

20 In addition, SEC petitioners are
21 normal citizens, basically. Now I suspect
22 that there may be some labor organizations

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that can sponsor this type of effort, but
2 normal citizens, I would contend, would
3 typically lack the resources necessary to
4 pursue all documentation needed in order to be
5 in a position to fully respond to positions
6 taken in opposition to the acceptance of their
7 SEC petition, and these are some weaknesses of
8 the system that cause us concern in that we
9 know that everyone, including Dr. Glover,
10 NIOSH, including the Members of this Board,
11 want to do the right thing and, if there
12 should be an SEC petition, it should be
13 granted and, if not, then not. But it is kind
14 of an unlevel playing field for a petitioner
15 like my client to match up with the
16 governmental entities that are producing the
17 information and, in our view, would have kind
18 of a split loyalty.

19 On the one hand, I think we are
20 all proud of what our government does. We are
21 all proud of what our agencies that we work
22 for do, and we don't like to be in a position

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of having to disclose information that may be
2 contrary to our beliefs that everything was
3 done right, and may very well have been. But
4 then we also need to get information that
5 would allow us to do the job this Board needs
6 to do, and that is to determine if Special
7 Cohort status is needed.

8 Turning to Slide 16. Although the
9 OST identified reasons why they felt that
10 certain dose reconstruction was unnecessary,
11 it is uncontroverted that no area dosimetry
12 was performed at Hangar 481.

13 Likewise, no bioassay program was
14 ever implemented at Hangar 481. No Ross
15 Aviation facilities were monitored for
16 contamination, and no radiation monitoring was
17 ever performed inside -- was performed inside
18 Hangar 481. Those admissions appear in
19 NIOSH's presentations to this Advisory Board,
20 and those admissions are made in the
21 statements made to NIOSH by the OST.

22 Petitioner would submit that, sure,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there may be dose badges or other pieces of
2 information like the ambient background at
3 Sandia Base located several kilometers away
4 from this site that one might look at and say,
5 well, we will just go ahead and use that
6 information to bound or to estimate the doses;
7 we can do that just fine, and we don't need a
8 Special Exposure Cohort to do that.

9 On the other hand, the fact that
10 there wasn't any dose construction done, the
11 badged people went back to Sandia or got on
12 airplanes and left. The few workers there at
13 the base were there, and it is at the base
14 that these nine claims under the Act for
15 compensation exist. It is at the base of
16 operations where my client's wife worked and
17 where the other two clients were located for
18 significant periods of time.

19 I would like to point out that the
20 two persons who provided information in
21 support of what we are trying to accomplish
22 are distinguished people. One, a pilot with a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 distinguished career who was given the
2 responsibility of piloting dangerous material
3 around the skies of the United States, and
4 piloting extremely important personnel from
5 place to place. These flights certainly were
6 done by Ross, which had a very good record of
7 flying, and certainly was a first rate flying
8 service.

9 The second of these persons was a
10 20-year employee who received two
11 commendations for work in helping to construct
12 the destructive testing mechanisms inside the
13 hangar and working on the hangar doors to
14 assure successful completion.

15 It is not in the record, but at
16 the beginning of his claim, the Labor
17 Department said they didn't even think he
18 worked there, and in spite of that 20-year
19 commendation and in spite of those two
20 specific recognitions of a job well done.

21 Those are the people who have
22 given us statements that the radioactive

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 materials were actually loaded on the flight
2 line and, although there probably may have
3 been some at the other locations, too, I think
4 that that is the quality of the information
5 that is there.

6 Also on this slide, I needed to
7 mention a couple of other points that I didn't
8 have an opportunity to put into the slide.
9 One of the things that Dr. Glover asked about
10 -- and I hope I can -- this is not revealing
11 anything that would be improper -- was whether
12 or not thorium based welding rods would have
13 been implemented and used for the maintenance
14 of these aircraft in the hangar building.

15 The documentation that we have
16 presented from NIOSH indicates that the
17 airplanes were indeed maintained in Hangar
18 481, and the outbuildings adjacent to the
19 Hangar 481 building that we observed in
20 January of 2011 clearly were buildings that
21 contained significant types of industrial and
22 mechanical machinery and equipment for the use

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and utilizing to maintain airplanes.

2 It is our belief that the Ross
3 Aviation that had a very good flight record
4 would most likely have used the best
5 techniques available for the maintenance of
6 the aircraft that were doing those important
7 functions of piloting important people and
8 flying hazardous materials, and most likely
9 thoriated rods, welding rods, which provide a
10 better result and a stronger result would have
11 been implemented, if and when necessary.

12 The petitioner and I cannot and do
13 not have information that such rods were used,
14 but the existence of the potential for their
15 use and the awareness that they were used are
16 factors that make us question then the mere
17 assertion that that never happened in the
18 building.

19 One of the things we wanted to
20 find out was, well, what is the basis for
21 OST's statement that thoriated rods were never
22 stored or used at the hangar building. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 petitioner's wife was working in the office
2 that handled the maintenance -- or the parts
3 and so forth, and as I recall from viewing the
4 building, the place where things would be
5 stored was actually a room right behind where
6 she worked.

7 If thorium based rods were there,
8 those radioactive materials, even though we
9 don't know how much would have been provided
10 by that, would have then been present in the
11 place where, as already stated, no area
12 dosimetry was ever performed. No bioassay
13 program was ever implemented. No Ross
14 Aviation facilities were ever monitored for
15 contamination, and no radiation monitoring was
16 ever performed inside the hangar building.

17 So I think that there is a
18 significant question, if nothing else, based
19 upon the question of the thoriated rods that
20 Dr. Glover asked about and received a terse
21 answer that, no, they never were there and
22 never were used, although we, the petitioner,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 believe that there is more to that, and we
2 believe that we should be having the
3 opportunity to at least see the documents that
4 might back up those type of questions.

5 So getting to Slide 17. Based on
6 the number of claims generated by former
7 Hangar 481 workers and the acceptance of one
8 such claim, the potential exists that
9 exposures to Ross Aviation employees resulting
10 from services rendered for the DOE at Hangar
11 481 may have occurred.

12 Also, if acceptance of this
13 petition at this time is not warranted,
14 further investigation is warranted before any
15 final adverse action should be considered on
16 the Hangar 481 SEC petition.

17 Summarizing and simplifying, we
18 just needed supporting statements for some of
19 the things OST said. We tried to get those
20 things, but were told that it would be 25,000
21 documents. It would take an extensive amount
22 of investigation to find. If that is true,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 then I just don't think that it is right to
2 deny this petition at this point.

3 I would like to say, grant the
4 petition, but I recognize that you may not be
5 able to do that, even though it has been
6 pending now for on to three years.

7 I thank you very much for giving
8 me this opportunity to speak, and I will stand
9 for questions if there are any.

10 CHAIRMAN MELIUS: Thank you, sir.

11 I think we actually will move on to Board
12 deliberations now. Any Board Members have
13 further questions for Sam? If not, do we have
14 any recommendations, action? Wanda, go ahead.

15 MEMBER MUNN: I would like to
16 recommend --

17 CHAIRMAN MELIUS: Can you speak
18 into the mic, I think, Wanda?

19 MEMBER MUNN: I recommend the
20 Board accept the NIOSH recommendation with
21 regard to SEC Petition 00139 covering all
22 employees who worked at Hangar 481 at Kirtland

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Air Force Base from March 1, 1989 through
2 February 29, 1996, be not approved.

3 CHAIRMAN MELIUS: Do I have a
4 second for that? I'll take that as a motion.

5 MEMBER ROESSLER: Second.

6 CHAIRMAN MELIUS: Second from Gen.
7 Further discussion? Mark?

8 MEMBER GRIFFON: I just wanted to
9 follow up on a couple of the things that were
10 brought up by the petitioner. I am looking
11 through the letter and the attachments, and
12 there is one description of a delivery, and
13 the person indicates that they wore TLDs on a
14 regular basis, but when the Sandia people
15 would deliver containers of radioactive
16 material, they would be suited and masked with
17 supplied oxygen.

18 That just caught my eye. I don't
19 know if you have any information about that
20 kind of thing occurring, Sam, or if NIOSH. I
21 am sure you have seen this affidavit.

22 DR. GLOVER: Certainly, the issue

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 about them being badged. People were using
2 the badge data for the people from Hangar 481
3 to do everybody. We have got no indication
4 that anything that would have been an exposure
5 potential for internal -- they have got
6 official reports saying that there is no
7 possible exposure potential in everything from
8 all of the data we have seen.

9 That is where that 25,000 pages
10 are. We have thousands and thousands of
11 things for NTS and Sandia that relate to swipe
12 data on these packages as they leave. Nothing
13 -- it is like you would send a FedEx package.

14 So I certainly can't say that it never
15 happened, that somebody couldn't have had some
16 kind of a -- but I don't see anything in the
17 records that support it.

18 MEMBER GRIFFON: And the other
19 thing that was brought up in the statement was
20 -- and I am just curious about this one --
21 that there was one claim that was approved.
22 If you can explain how.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. HINNEFELD: We had to ask DOL
2 about that because we didn't have it, and that
3 claim was paid because that person, in
4 addition to having employment at Hangar 481,
5 had employment at Nevada Test Site during the
6 SEC period and was paid via the Nevada Test
7 Site.

8 We didn't get the claim,
9 presumably because the claim came in after the
10 Class was added. So in that case, DOL doesn't
11 send those claims to us. They just administer
12 the claim.

13 CHAIRMAN MELIUS: Paul?

14 MEMBER ZIEMER: I have a question
15 for Sam. I was trying to get a feel for the
16 difference between loading something on the
17 flight line versus the pads. Is there any way
18 that that would change -- the dosimetry data
19 would be the same in either case. It is the
20 pads, because they're covered. Right? That
21 is the covered area? The flight lines
22 wouldn't be covered. Is that --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 DR. GLOVER: The 481 Hangar itself
2 and the immediate surrounding is the facility.

3 So presumably the hot pads would be outside
4 of that because they are like a mile away.
5 But since the pilots and the people from
6 Hangar 481 would have been present at the hot
7 pad with dosimetry -- we are not trying to
8 parse the data.

9 MEMBER ZIEMER: It wouldn't change
10 anything?

11 DR. GLOVER: No, sir.

12 MEMBER ZIEMER: Yes. That was my
13 impression.

14 MR. ARMIJO: Can I say something?

15 CHAIRMAN MELIUS: Briefly, please.

16 MR. ARMIJO: I am not aware that
17 the dose information over at the hot pad was
18 applied to the people in the hangar. Maybe it
19 was.

20 CHAIRMAN MELIUS: I believe what
21 he just said was that it is being -- or would
22 be under dose reconstruction because we don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have any -- NIOSH doesn't have any way of
2 separating that dose from other doses. So
3 even though it is outside the facility, in
4 essence it is being -- or the officially
5 designated facility, it is being taken into
6 account, so to speak.

7 MEMBER ZIEMER: And then just to
8 clarify in my mind the points raised by the
9 petitioner on those film badge dates that they
10 were talking about, for example, a September
11 5th date for someone who terminated August
12 5th. Well, most film badges run, for example,
13 for a month. So if I had a worker at my
14 facility that terminated August 15th or August
15 19th, whatever it is, but the badges were
16 August 5th to September 5th, his reading would
17 show up September 5th even though he hadn't
18 been working there. It is that month.

19 Is that what is going on here or
20 had you looked at those dates, Sam?

21 DR. GLOVER: I certainly didn't
22 look at that petitioner's particular issues,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 but I think they said they were responses from
2 Paducah. So apparently Department of Labor,
3 as is many sites, they would have gotten --
4 they would have queried other places. So if
5 they got a response back from a facility, even
6 though he wouldn't necessarily have been a
7 worker for Hangar 481, they may have gotten
8 dose data. But this isn't Hangar 481 data.

9 MEMBER ZIEMER: So I guess this
10 point -- maybe the petitioner can clarify --
11 was just raised because of questions about the
12 validity of some of the data. Is that -- I
13 got you.

14 MR. ARMIJO: Yes, that is true.
15 If I could say one more thing, I would like,
16 and then I will be quiet.

17 CHAIRMAN MELIUS: Go ahead.

18 MR. ARMIJO: Very briefly. The
19 dose reconstruction for my client's wife used
20 only the ambient data from Sandia as the basis
21 for the dose reconstruction. To my knowledge,
22 the dose reconstruction that was done did not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 take the data from the hot pads and use it as
2 part of the calculation.

3 I could be mistaken on that,
4 because I didn't go back and check that before
5 this hearing, but that is my recollection of
6 how that dose reconstruction was done. That
7 would be inconsistent with what has been said
8 as far as the use of the data, applying it
9 from a hot pad to the person at the base.

10 DR. GLOVER: It has been a long
11 time now for me to recall if we -- the ER was
12 done after the dose reconstruction was
13 complete, and once you do that, you don't
14 necessarily -- after we are finished
15 deliberating, then we would review our dose
16 construction methodology and see if it needs
17 to be revisited to previous cases.

18 Until we are done, and we have
19 gone through the process, though, we don't --
20 until the process is resolved. Yes, sir.

21 CHAIRMAN MELIUS: Any further
22 questions from Board Members? Yes, Brad.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MEMBER CLAWSON: I am just looking
2 Sam on this, and you have an n/a for neutrons.
3 So they didn't have any capabilities of any
4 neutron exposure?

5 DR. GLOVER: We didn't see
6 anything where there was a -- There was no
7 neutron measurements conducted. Badges
8 weren't set up for doing neutrons, and the
9 source terms that went through there, Brad, on
10 these planes and for this activities wouldn't
11 have been neutron sources.

12 MEMBER CLAWSON: The reason I was
13 wondering is because they brought up certain
14 containers, and those containers were actually
15 pit containers for Pantex, and those do have a
16 neutron issue. That is why I was wondering
17 why this isn't -- you know, this isn't being
18 addressed. Is there -- A lot of those came
19 from Sandia and so forth. I am just wondering
20 why -- if there was some reason why this isn't
21 being in consideration.

22 DR. GLOVER: The transport --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sometimes those are via truck, and this is
2 airplane transportation. So they wouldn't
3 have -- I know the discussion that you and I
4 had had, and so I know particularly what you
5 are referring to regarding neutrons, but I
6 don't think it is pertinent for this one, for
7 this particular exposure scenario.

8 CHAIRMAN MELIUS: Any other
9 questions? If not, I think we will -- no
10 further discussion, we will ask for a vote.
11 Ted, you want to call the roll? The motion is
12 to reject the SEC, accept the NIOSH Evaluation
13 Report.

14 MR. KATZ: Dr. Anderson?

15 MEMBER ANDERSON: Yes.

16 MR. KATZ: Ms. Beach?

17 MEMBER BEACH: Yes.

18 MR. KATZ: Mr. Clawson?

19 MEMBER CLAWSON: No.

20 MR. KATZ: Dr. Field?

21 MEMBER FIELD: Yes.

22 MR. KATZ: Mr. Gibson?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER GIBSON: No.

2 MR. KATZ: Mr. Griffon?

3 MEMBER GRIFFON: Yes.

4 MR. KATZ: I will collect Dr.

5 Lemen's vote. He is absent. Dr. Lockey?

6 MEMBER LOCKEY: Yes.

7 MR. KATZ: Dr. Melius?

8 CHAIRMAN MELIUS: Yes.

9 MR. KATZ: Ms. Munn?

10 MEMBER MUNN: Yes.

11 MR. KATZ: I will collect Dr.

12 Poston's vote. Dr. Richardson?

13 MEMBER RICHARDSON: Yes.

14 MR. KATZ: Dr. Roessler?

15 MEMBER ROESSLER: Yes.

16 MR. KATZ: Mr. Schofield?

17 MEMBER SCHOFIELD: Yes.

18 MR. KATZ: Dr. Ziemer?

19 MEMBER ZIEMER: Yes.

20 MR. KATZ: So the motion passes.

21 Two nays, two absent Members. The rest are

22 yeas.

NEAL R. GROSS

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

1 CHAIRMAN MELIUS: Okay. We will
2 take a break now. We'll have a letter to
3 review -- we can probably do that tomorrow on
4 this. We will take a break until 4:45, and
5 then we will reconvene for the Ziemer report.

6 (Whereupon, the above-entitled
7 matter went off the record at 4:29 p.m. and
8 resumed at 4:52 p.m.)

9 CHAIRMAN MELIUS: If we can
10 reconvene, and Board Members are here in
11 attendance, and we will start. We have an
12 update on activities with Lawrence Berkeley
13 National Lab and the Stanford Linear
14 Accelerator, and Paul Ziemer.

15 MEMBER ZIEMER: I am only doing
16 the Lawrence Berkeley part of this report, and
17 then Joe Fitzgerald will follow up with the
18 SC&A activities on Lawrence Berkeley. Then I
19 think Joe is also going to cover the SLAC
20 Program. So let's begin with Lawrence
21 Berkeley.

22 I just want to tell you who is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 working on this Work Group. In addition to
2 me, there is Dr. Richardson and Dr. Lemen are
3 the Board Members. Dr. Hughes from NIOSH is
4 the staff person, and then for SC&A Joe
5 Fitzgerald is the contact person.

6 I have borrowed from Dr. Hughes
7 several slides which were used in 2010 at the
8 point when we had a petition, SEC petition for
9 this site, and I will just quickly review
10 these for the benefit of both the Board and
11 others who are attending today.

12 The site goes back to 1931 and, of
13 course, in '41 Dr. Lawrence began his defense
14 contract work, and then we have the Manhattan
15 Engineering District activities beginning in
16 August of 1942, and that is when the covered
17 period starts for this facility.

18 In 1945 we have the time when
19 migrations to the hill east of the Berkeley
20 campus took pace, so an expansion there.
21 There are numerous buildings on the campus and
22 on what they call the hill that are involved

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in the Lawrence Berkeley National Lab program
2 and, of course, as you know, this facility is
3 still operating today.

4 Some of the highlight operations
5 that are going on. Again, this is primarily a
6 research type facility. There is a lot of
7 accelerators of various types, the cyclotrons,
8 the synchrotron, Van de Graaff generators,
9 Betatron, and the high energy linear
10 accelerator as examples.

11 A lot of radiochemistry has taken
12 place there, of course, including the
13 important plutonium work that started there; a
14 lot of studies on fundamental particles, high
15 energy physics.

16 Uranium enrichment research began
17 there with Calutron technology, which
18 eventually was used in Oak Ridge at the Y-12
19 facility, and radiation operations took place
20 in virtually all of the laboratories that are
21 associated with that facility. So it is
22 pretty widespread throughout that facility in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 terms of buildings.

2 We had a petition, Petition 00160,
3 that was recommended by NIOSH, approval
4 recommended by NIOSH in January of 2010, and
5 this Board accepted that recommendation on
6 March 5th of 2010, and the Secretary of Health
7 and Human Services on April 5th of 2010
8 designated the Class for the period of 1942 to
9 1961.

10 The formation of this Class was
11 based largely on inability to reconstruct
12 internal doses with sufficient accuracy,
13 although some external doses caused
14 difficulties for the early years as well.

15 I am not going to read this, but
16 just as a reminder, here is the official
17 definition of the Class that already exists,
18 the SEC Class at Lawrence Berkeley National
19 Lab. Again, I will emphasize the dates. it
20 is August 13, '42, through December 31, 1961,
21 and it is all contractors and subcontractors
22 for the site for that period of time.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Now what is the Work Group doing?

2 We met last month and reviewed the findings
3 of SC&A. Their findings were based on
4 primarily an initial Site Profile and, to some
5 extent, on a revision. The official Site
6 Profile now is actually a revision dated May
7 2010, and Joe Fitzgerald is going to present
8 the summary of the findings in just a moment.

9
10 So I am not going to go over them
11 here, but the findings of SC&A were largely
12 based on the initial Site Profile, although
13 SC&A did look at the revision and have
14 adjusted things a little bit, but they are
15 still looking at the revised Site Profile.

16 The Work Group, which met just a
17 few weeks ago, reviewed the initial responses
18 to the findings that were provided by NIOSH to
19 the -- that is the SC&A matrix, basically. We
20 have looked at the SC&A matrix findings. We
21 have looked at the initial responses by NIOSH
22 but, basically, simply to become aware of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 what the issues were.

2 Those responses by NIOSH were
3 basically new, both to the Work Group as well
4 as to SC&A at the time of our meeting a few
5 weeks ago. So at our next meeting, which we
6 have planned for mid-September, and that date
7 is based largely on the NIOSH schedule and
8 priorities and when they can look at what
9 SC&A's responses will be. Then we will be
10 following up on the issues in the findings
11 matrix.

12 So that is where we are as far as
13 the Work Group, just really getting underway,
14 and the focus is on the Site Profile. We do
15 not have an additional petition before us at
16 this time.

17 So with that, I will let Joe
18 Fitzgerald from SC&A come. Joe is going to
19 summarize. Joe, I am going to try to help
20 pull your thing up here. I've found it, but
21 it is a little slow in responding, but in any
22 event, Joe will delineate the findings in a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 little more detail. Again, we haven't
2 resolved these. It is just to inform you
3 briefly of what we are looking at.

4 MR. FITZGERALD: Thank you. Just
5 picking up on where Paul left off, a couple
6 things on this particular review. This Site
7 Profile review, even though the Site Profile
8 came out in 2007, we were tasked by the Board
9 and actually completed this in 2010. Just as
10 we completed the review, the Evaluation Report
11 came out, and then shortly thereafter a
12 Revised Site Profile came out.

13 So in a way, we reviewed last
14 year's or we reviewed the Site Profile
15 snapshots three years ago we reviewed. So it
16 was a little outdated almost at the time it
17 came out. Nonetheless, when the Work Group
18 met we walked through this and put things in
19 perspective against both the ER and the Site
20 Profile review.

21 Essentially, what it breaks down
22 to is SC&A's charge is to address the findings

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in terms of the '61 cutoff in terms of what is
2 still relevant, and also to take a hard look -
3 - this has been tasked by the Work Group -- to
4 look at the second revision of the Site
5 Profile to see what, in fact, has changed in
6 terms of the findings.

7 I am not going to go through these
8 in any real detail, but this is sort of a
9 spectrum of very familiar type issues that we
10 see in some of the Site Profiles, certainly
11 the question of whether the historical
12 operations are covered.

13 I think, for Berkeley, given the
14 rich history of the accelerators, we felt we
15 could benefit from what was done with the
16 Brookhaven Site Profile and some of the
17 others, Argonne Site Profile, where they did
18 go from machine to machine and actually
19 provided a lot of good background information
20 that would be helpful for the dose
21 reconstructor.

22 We had an issue on MDAs, which may

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 actually be addressed in the revision. We are
2 going to have to take a hard look at that and
3 see whether or not some of the deficiencies
4 might, in fact, have been addressed by the
5 revision that came out in 2010. Very
6 possibly, it has.

7 Tritium plutonium. We are talking
8 about high-fired plutonium and tritides.
9 Certainly, there was some handling of that.
10 That wasn't fully addressed in the original
11 Site Profile. We find in the revision,
12 though, quite a bit of discussion on organic
13 forms of tritium, tritides, and high-fired Pu.

14 So I am sort of optimistic that
15 most of that issue will go away, but we are
16 going to take a hard look at that. That is
17 one of the tasking's from the Work Group.

18 The adequacy and completeness of
19 records, that is something that, I think,
20 NIOSH is going to take a look at in terms of
21 just looking at whether or not the adequacy
22 and completeness is there through not only '61

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 but beyond '61. I think that is a good thing
2 that will give us that validation.

3 The selection of energy range.
4 There are a lot of machines, accelerators, at
5 Berkeley that had a whole range of energies,
6 and in terms of one calibrating that against
7 the dose reconstruction of photon exposures,
8 clearly, that needs to be done in order to
9 come up with a representative assessment. In
10 some cases, we were kind of concerned that
11 that wasn't done as fully as it needs to be.

12 Neutron dosimetry, number 6.
13 Again NTA film was used in the earlier years,
14 a lot of the very familiar issues of whether
15 or not the adjustment factors were, in fact,
16 appropriate for the energy range of the
17 neutrons. So again, that is something that --
18 we will take a hard look at the revision.
19 Revision 2 of the Site Profile certainly has a
20 lot more on neutrons than the first version
21 did.

22 Shallow dose. Another issue that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we are going to take a look at. The rest of
2 these issues, I think, are pretty familiar to
3 the Board, medical X-rays and some of the
4 questions on bioassay. Some of these issues
5 went away in terms of the SEC.

6 I think there was agreement that,
7 prior to '61, the adequacy of the records was
8 questionable, certainly not sufficient for
9 dose reconstruction. So a lot of those
10 issues, I think, are gone.

11 What we are going to be looking at
12 is the adequacy beyond '61, understanding that
13 breakpoint a little better in terms of the
14 Site Profile. So we will certainly cover that
15 for the Board, and then, of course,
16 occupational and environmental dose and some
17 of the other issues that revolve around that.

18 Those issues are mostly whether or
19 not the assumptions governing how
20 environmental dose were estimated cover the
21 gamut of what was operated on site. You had
22 such a variety of activities, operations, over

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 those number of years. Can you envelope those
2 with the assumptions that you are using for
3 things like environmental?

4 I think, again, Dr. Ziemer covered
5 this, but we have actions, certainly, to take
6 a hard look at the revision and come back to
7 the Work Group with our assessment of whether
8 these issues are, in fact, fully addressed by
9 this revision and, if not, what some remaining
10 issues are. I think NIOSH has a number of
11 issues along those lines, too.

12 More specifically, I just listed
13 some of the to dos that we have prior to the
14 next Work Group meeting.

15 Any questions on Berkeley as far
16 as where we are going with SC&A?

17 CHAIRMAN MELIUS: Good.

18 MR. FITZGERALD: In terms of
19 Stanford Linear, this is a little bit of a
20 different site. Instead of a multi-purpose
21 site like Berkeley, Stanford Linear was
22 essentially a single purpose particle

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 accelerator. So the issues certainly are a
2 little more straightforward, shall I say.

3 We had -- and again, our review
4 was just completed this past January, January
5 2011, and I believe there is no Work Group
6 formed for SLAC. So essentially, those
7 standings are as is. Those are the pertinent
8 dates.

9 We conducted a review May to
10 August of 2011, and we issued a report just
11 about two or three months ago, actually.

12 Four primary findings -- the
13 distinction between primary and secondary,
14 primary findings certainly have the potential
15 to have implications for dose reconstruction.

16 So we are saying those are more significant,
17 ones that have to be settled in terms of
18 determining whether or not there is technical
19 deficiencies.

20 Secondary findings certainly are
21 ways to enhance dose reconstruction, but
22 certainly, we found that the approach was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 sound, and certainly would not impair dose
2 reconstruction. These are improvements that
3 one could make to the process, clarifying
4 assumptions, clarifying the bases for the
5 approach, but not certainly questioning the
6 approach itself.

7 So on the primary findings, four
8 basic findings in terms of neutron dose
9 adjustments. This gets to the calibration
10 factors, the adjustment factors that were used
11 in the neutron dose assessments, and again we
12 found that the correction factors recommended
13 by NIOSH, we felt, were not adequately
14 supported by the information that was in the
15 Site Profile; not to say that they were
16 necessarily wrong, but there was no way we
17 could evaluate the correction factors without
18 having a better and clearer understanding of
19 the bases.

20 So that is a question of probably
21 more clarification, but this does get to a
22 very fundamental point, because again there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 were neutron exposures based on energy ranges
2 from the accelerator, and those correction
3 factors have a pretty significant bearing on
4 what kind of dose can be calculated.

5 Extremity monitoring and low
6 energy photon calibration. Again, components
7 were handled where there would be, certainly,
8 some extremity exposure involved, and this
9 particular issue wasn't really addressed in
10 the Site Profile. So that is a gap that we
11 think needs to be looked at.

12 Internal dose from radon and
13 thoron. Almost all the accelerator sites, the
14 issue of potential radon or thoron issues in
15 the confined spaces of the accelerator tunnels
16 is addressed. From interviews, we found that
17 apparently radon measurements were taken.

18 This issue is not really addressed
19 in the Site Profile. We think it at least
20 should be touched on as to whether there was
21 any implications for exposure of workers in
22 those tunnels.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 The final one, there are some gaps
2 in terms of the data as far as internal
3 radiological hazards. On this particular
4 site, I think a judgment was made by NIOSH --
5 we don't necessarily disagree with it -- that
6 there really wasn't much in the way of
7 internal hazards because of the nature of the
8 operation, but there were some campaigns where
9 certain targets, radiological targets, were
10 used.

11 So one can't discount that there
12 may have been episodic exposures, and that
13 issue of potential episodic internal uptake is
14 based on handling of targets or the actual --
15 I won't say destruction of targets, but the
16 impingement of targets by the accelerator
17 beam. Those issues, we felt, ought to at
18 least be addressed and looked at and
19 acknowledged in there.

20 It may turn out again there
21 wouldn't be any significant source-term that
22 would be involved in the dose reconstruction

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 process, but for Site Profile it would be
2 useful to at least have that addressed.

3 So those are the four primary
4 findings. Again, we had -- I won't go through
5 these, but these were areas in terms of
6 characterization, claimant medical records,
7 incomplete bases. These were areas where we
8 felt the Site Profile would benefit from
9 clarification and a little bit more detail as
10 to where some of these exposures came from and
11 some of the assumptions were made, what the
12 bases for the assumptions were.

13 Again, in terms of actual
14 responses, we wouldn't expect any response in
15 the course of the Work Group discussion, but
16 again for the benefit of improving the Site
17 Profile, these were made in the report.

18 MEMBER GRIFFON: Joe, that next to
19 the last one, on site airborne releases, you
20 mentioned.

21 MR. FITZGERALD: Right.

22 MEMBER GRIFFON: What type of on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 site airborne releases?

2 MR. FITZGERALD: This would be
3 where you would have -- using certain targets,
4 and you would fire the accelerator, and you
5 would get some off-gas, but very minor, and
6 the assumptions for what would be the fence
7 line dose. Some of those issues would be --
8 it would better to understand where those
9 assumptions came from, and that wasn't very
10 clear in the Site Profile.

11 Again, I don't think that is going
12 to be any significant impact on dose
13 reconstruction or the contribution of that to
14 the Work Group, but that would be helpful to
15 know that.

16 CHAIRMAN MELIUS: Stu, you had a
17 few comments, and I actually have a question
18 for you also, but go ahead.

19 MR. HINNEFELD: I don't have a lot
20 of substance to add except that in the
21 Lawrence Berkeley case, things are a little
22 farther along. We have identified the actions

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we need to take to address the issues that are
2 in our lap, and so some involve site research.

3 So that is part of the scheduling.

4 With Stanford, we are not quite to
5 that point where we form the plans, but we are
6 essentially thinking about it. We have a
7 point of contact on our side and a point of
8 contact has been selected on our contractor's
9 side, and they are formulating what needs to
10 be investigated, but it is not quite as far
11 along.

12 I think there is also not a Work
13 Group yet for Stanford.

14 CHAIRMAN MELIUS: That was my
15 question for you, was actually if we have some
16 idea of the schedule on responding, we will
17 form a Work Group.

18 MR. HINNEFELD: Well, just
19 speaking off the cuff, I would say it would be
20 no better than Berkeley. So you are looking
21 at -- what did you say, a September meeting,
22 for Berkeley. I would suggest that Stanford

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 would be no sooner than that.

2 It may not involve as much work.
3 So it might be about the same, but I wouldn't
4 think it would be any sooner.

5 CHAIRMAN MELIUS: Okay, that is
6 fair. That will help. I think we will form a
7 Work Group then and have that ready and be
8 able to meet sometime, hopefully, later in the
9 fall or early winter. Good.

10 Thanks. Any questions from
11 others? Okay.

12 We are now ready for our public
13 comment period. Ted.

14 MR. KATZ: Yes. Just to explain
15 for public commenters the ground rules for
16 these. These Board meetings are all fully
17 transcribed verbatim. So whatever comments
18 you make will be transcribed and posted in the
19 transcript of the Board meeting for all of the
20 public to read on the NIOSH website.

21 So anything you say that is of a
22 private matter, about yourself included, will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 be posted and available for public
2 consumption.

3 The exception is whatever you
4 might discuss about a third party, about
5 someone else that is private, including their
6 identity, will be redacted from the transcript
7 that gets posted, so to protect their privacy.

8 So you might be a close friend, whoever.
9 That information will be redacted.

10 You can have full details about
11 this redaction policy on the NIOSH website
12 under the Board section of the website. Close
13 to the top there, there is a full explanation
14 of what we redact and what we don't redact in
15 transcripts.

16 That's it. There is no one signed
17 up here for public comments. We do have a
18 request from Dr. McKeel to make comments, and
19 that is the only request, I believe, that I
20 have received.

21 CHAIRMAN MELIUS: Okay.

22 DR. McKEEL: Dr. Melius, this is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Dan McKeel.

2 CHAIRMAN MELIUS: Go ahead, Dan.

3 DR. McKEEL: All right. I would
4 like to say good afternoon to the Board. I am
5 speaking as the -- can you hear me okay?

6 CHAIRMAN MELIUS: Yes, we can.

7 DR. McKEEL: Okay. I am speaking
8 as the co-petitioner for General Steel
9 Industries, SEC-105, being handled by the TBD-
10 6000 Work Group.

11 There is some striking new
12 information that has emerged that I need to
13 share with the Board. The findings I am
14 reporting today emerged from a careful
15 scrutiny of the NRC FOIA 2010-0012 material I
16 first brought to the attention of the Board
17 and NIOSH in December 2010.

18 NRC later posted these 1,016 pages
19 of AEC cobalt-60 byproduct materials licensing
20 information to GSI on their public website.
21 The new findings also were verified and
22 supported by re-interviewing a number of GSI

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 former workers who substantially corroborated
2 the findings I am about to discuss.

3 Finding Number 1: The betatron
4 exit tunnel doors were not double leaf and
5 lead-shielded during the covered period of
6 1953-1966, as is stated in the January 2012
7 betatron White Paper by David Allen.

8 We have photographic and affidavit
9 proof that the double leaf doors were
10 installed in 1968 after the covered period at
11 GSI had ended. Betatron workers, to a man,
12 had always stated that the tunnel exit doors
13 on both the old and new betatron buildings
14 during 1963-66 were a, quote, "steel, red
15 ribbon roll-up door."

16 The NIOSH evidence is that in the
17 30-page January 2012 Allen White Paper, it
18 showed drawings of the new betatron buildings
19 from the GSI cobalt-60 AEC 1968 and '71
20 license renewal applications. Again 1968 was
21 two years after the covered period had ended.

22 The text noted the doors were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 "double leaf with lead shielding," and that is
2 a quote. Similar double leaf doors were
3 described and shown in drawings in the ORNL
4 DOE cleanup report for the GSI new betatron
5 building in 1992. According to ORNL at the
6 same time the old betatron tunnel had only a
7 double leaf door with no lead shielding.

8 The McKeel and [Identifying
9 information redacted] evidence was that there
10 is both old and recent direct worker
11 confirmation, eyewitness confirmation, that in
12 the covered time period the old and new
13 betatron tunnel exits were closed off by red,
14 steel roll-up ribbon doors that could not be
15 retrofitted with lead shielding, in their
16 opinion.

17 [Identifying information redacted]
18 and McKeel photographs and ones from the
19 Department of Energy cleanup in 1992 show the
20 tunnel exit doors have double leaf doors with
21 vertical strips on the lower panel. There is
22 no lead shielding. These doors bear no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 resemblance to the red ribbon roll-up doors
2 described by the workers for the GSI covered
3 period.

4 In September 2006 Dan McKeel
5 photographed the exact type of red steel roll-
6 up ribbon door that now enclosed the Building
7 10 entry to the new betatron building break
8 area and rail track tunnel.

9 AEC documents said the break area
10 tunnel at the entry to Building 10 was bounded
11 by a chain mesh. Workers testified that in
12 1963-66 the break area entry to Building 10
13 and the new betatron was wide open, not
14 enclosed at all.

15 These observations lead to several
16 important conclusions. First, it is incorrect
17 to reconstruct doses for the covered period
18 based on the assumption there was a double
19 leaf, lead shielded door to limit the dose to
20 workers in Building 10 and in the new building
21 new betatron break area. This section of the
22 second Allen White Paper should be retracted,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and doses redone based on a roll-up unshielded
2 steel door at the end of the two betatron
3 tunnels.

4 Second, once again NIOSH and SC&A
5 have given insufficient weight to worker
6 testimony about the true nature of the
7 betatron doors and shielding in the covered
8 period. Instead, the paper uses information
9 about the betatron facilities from the
10 residual period that has no relevance to the
11 covered period situation.

12 Finding number two: the January
13 2012 Allen White Paper also perpetuates the
14 incorrect statement that the nearest building
15 to the betatron building during the covered
16 period was 1,000 feet away. In fact, to the
17 contrary, the old and new betatron buildings
18 were only 300 feet apart.

19 The outside of the old betatron
20 building contained a sign that McKeel
21 photographed in 2006 which said, quote, "Do
22 not approach this building within 100 feet."

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 We hold this sign meant that a significant
2 radiation danger field existed around the old
3 betatron building.

4 We can assume a similar danger
5 zone also surrounded the new betatron
6 facility. Those 100 foot radius zones would
7 clearly involve persons in Building 6 -- in
8 Building 10, excuse me, in the space between
9 the two betatron buildings.

10 This was a very busy area that
11 many unbadged workers also used to bypass
12 walking through the foundry. This was a main
13 boulevard. These between-the-building
14 betatron doses have not been modeled or
15 measured accurately by NIOSH, nor have they
16 been recognized or modeled by SC&A.

17 Finding three: the Building 6
18 radiography facility at GSI has been
19 incorrectly modeled for the period 1953-1962
20 when radium-226 was being used for
21 nondestructive testing.

22 This is an SEC issue. The October

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 2011 Allen White Paper on GSI portable sources
2 chose an August 1962 drawing of the Building 6
3 roofless radiography facility. SC&A uses the
4 same drawing in their review.

5 Packet 5 of 37 of the NRC FOIA
6 2010-0012 material chose the same drawing, but
7 in which "[Identifying information redacted]"
8 -- and that is in quotes, capital [Identifying
9 information redacted], period, [Identifying
10 information redacted], end quote, has signed
11 the drawings and annotated that the steel
12 plates and second layer of concrete blocks
13 were, quote, "added in June/July 1962."

14 [Identifying information redacted]
15 name and the date annotation were omitted in
16 both the SC&A review drawing and in the GSI
17 1962 and subsequent AEC license applications
18 for the .5 curie Co-60 sources.

19 Scientifically, this is a very
20 troubling omission of key data, because it
21 confirms worker testimony that no such steel
22 plate shielding was in use prior to 1962 when

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the same facility was used with radium-226
2 sources in the fish pole technique.

3 The AEC banned radium-226 in the
4 fish pole NDT technique from use in the early
5 1960s throughout the USA for safety reasons.
6 Workers state that 300 unbadged workers
7 labored near the Building 6 radiography
8 facility, and this differs from the Allen SC&A
9 analysis.

10 Finding 3 indicates that neither
11 NIOSH nor SC&A thoroughly reviewed the McKeel
12 NRC FOIA 2010-0012 material. Lack of a door
13 in the inner radiography structure before 1962
14 and walls that were a single concrete block
15 thick had been revealed to NIOSH and SC&A by
16 GSI workers previously, but was ignored in the
17 recent Allen White Papers.

18 Radium-226 doses in and
19 surrounding the Building 6 radiography
20 facility from 1953 to 1962 of the covered
21 period should be recalculated or modeled by
22 NIOSH and SC&A. The issue is that no actual -

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 - that is, real -- radiologic surveys had been
2 made of this radiography facility prior to
3 1962 when there was less steel and concrete
4 shielding.

5 Again, the [Identifying
6 information redacted] June/July 1962
7 annotations prove the changes were applied to
8 an existing facility and further confirm
9 worker testimony to that effect.

10 Another overall conclusion that
11 applies to the three findings is that GSI
12 license applications to the AEC cannot be
13 trusted without confirmation by readily
14 obtainable worker testimony.

15 This company, GSI, was clearly
16 self-serving to the detriment of workers. The
17 [Identifying information redacted] June/July
18 1962 annotations should have been incorporated
19 into the 1962 GSI cobalt-60 license
20 application to the AEC, but apparently someone
21 removed them.

22 This removal of key data casts

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 doubt on the validity of the entire Nuclear
2 Consultants Corporation radiologic survey and
3 input to GSI's 1962 AEC license application.
4 Correct scientific data appears to have been
5 deliberately manipulated, according to the
6 written record.

7 GSI petitioners, site experts, and
8 former workers and claimants ask that the TBD-
9 6000 Work Group carefully consider these new
10 findings when making a final recommendation on
11 GSI SEC 50 to the full Board.

12 Finally, we remain concerned about
13 the inordinate amount of time it has taken to
14 revise GSI Appendix BB and for the Work Group
15 to make its initial recommendation on SEC 105.

16 Compare and contrast GSI with the two
17 Brookhaven SECs at this meeting. BNL had
18 multiple particle accelerators, as did GSI,
19 and even had extensive film badge data on all
20 workers, and had a known bioassay monitoring
21 program. GSI, by contrast, has minimal film
22 badge data from one job category on only three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 percent of workers, and zero bioassay data.

2 The GSI SEC has been considered
3 for three years and four months since the
4 NIOSH Evaluation Report was issued, without
5 the TBD-6000 Work Group taking a formal vote
6 or making a firm recommendation.

7 There is a huge difference in
8 processing times for both BNL SECs, which is
9 only one to two months, with one being an
10 83.14 SEC, compared to the GSI SEC time of
11 three-plus years and, for Appendix BB to be
12 revised, four-plus years.

13 The SEC and Appendix BB revision
14 process at GSI, those two processes have
15 dragged on for far too long to be considered
16 at all reasonable. This lack of timeliness at
17 GSI is decidedly not claimant favorable by
18 anyone's estimate.

19 We again urge the TBD-6000 Work
20 Group and full Board to approve the GSI SEC-
21 105 at its next Board meeting. If BNL
22 deserves its SECs, then clearly, GSI does,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 too.

2 Thank you very much.

3 CHAIRMAN MELIUS: Thank you, Dan.

4 Anybody else on the call wish to make public
5 comments?

6 If not, then the public comment
7 period is adjourned, and the meeting is
8 adjourned for today. See everybody here
9 tomorrow morning.

10 (Whereupon, the above-entitled
11 matter went off the record at 5:28 p.m.)

12

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com