

that there was only one contractor, which would perform all tasks placed before them.

- # **Mr. Griffon** indicated that a question had come up in the working group as to what point in the process individual cases would be available for review. **Mr. Elliott** responded that cases would be available upon final decision from DOL, so long as the case is not on appeal.

Dr. Ziemer advised the Board that the recommendation for approval of the Procedure for Processing Individual Dose Reconstruction Reviews came from the working group as a motion requiring no second. If approved, it would become the Board's working document and could be changed at any time upon action by the Board. With no further discussion requested by the Board, **Dr. Ziemer** called for a vote.

The motion to approve the Procedure for Processing Individual Dose Reconstruction Reviews was passed unanimously.

- # **Ms. Munn** indicated she was still concerned about the large number of site profiles being required. **Dr. Ziemer** asked if tasks couldn't be changed if needs changed. **Mr. Elliott** responded that tasks could be added to, but once a scope of work was placed before a contractor, it could not be reduced.
- # **Dr. Genevieve Roessler** stated she didn't feel it was a large number. The phrasing of the task afforded some flexibility, and the contractor should have a variety of different types of sites to evaluate.
- # **Dr. Andrade** suggested perhaps starting with five and increasing the scope, given **Mr. Elliott's** information and **Ms. Munn's** comments.
- # **Mr. Leon Owens** commended the working group for its job and called for the question.

Dr. Ziemer acknowledged calling for the question as a formal motion to end debate, which required a two-thirds majority vote to pass.

The motion to end debate was seconded and passed by a vote of eight to two.

Dr. Ziemer called for a vote on the motion to approve the Site Profile Review task.

The motion to approve the Site Profile Review task

was passed, with one abstention.

The motion to approve the Dose Reconstruction Review Tracking task required no second. With no further discussion requested by the Board, Dr. Ziemer called for a vote.

The motion to approve the Dose Reconstruction Review Tracking task was passed unanimously.

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BOARD DISCUSSION, CLAIMS REVIEW PROCESS

Mr. Larry Elliott announced that the contract for technical support to the ABRWH had been awarded to Sanford Cohen & Associates. The announcement will be placed on the web site following determination of the portions appropriate for public dissemination by the Procurement Office.

Mr. Elliott suggested taking some time to discuss the subcommittee recommendation and the differences between that entity and a working group.

Ms. Cori Homer of the Atlanta NIOSH office presented the Board with a description of the differences between the two. Applicable requirements for establishment under FACA rules, as well as authority of a subcommittee, were discussed.

Since the subcommittee recommendation was made to effectuate efficiency, Mr. Elliott offered to walk the Board through the task order process. This was an effort to help the Board come to an understanding of specified time periods for each required step.

Following Mr. Elliott's description of the process and extensive discussion, Dr. Ziemer pointed out to the Board that an agreement at this meeting was not necessary. The issue was tabled until the following day in order to stay with the agenda and proceed to public comment.

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PUBLIC COMMENT PERIOD

Mr. Richard Miller
Government Accountability Project

Mr. Miller inquired into the schedule for the Special Exposure Cohort (SEC) rule being available. **Mr. Elliott** responded that the rule has been revised and is under review. It will be published when released by the Department, and available for petitions to be generated against.

Mr. Miller raised the issue of conflict of interest statements for those working on the site profiles. **Mr. Elliott** noted they are now on the web site.

Mr. Miller queried policy that applies to dose reconstructors not applying to those doing site profiles. **Mr. Elliott** responded that they didn't want to see anyone working on their products serving on the opposite side of litigation. **Dr. Neton** commented on the issues **Mr. Miller** has raised about people who have worked at a site and are now doing site profiles, noting that the expertise to do the site profiles lies with those who have experience at a site.

Mr. Miller contended it was an incongruity to have different professional standards of conduct applied to those doing dose reconstruction than for those who do site profiles and wondered if that were "spelled out" anywhere. **Mr. Elliott** was concerned that **Mr. Miller's** example had been accurately portrayed for the record. The situation is one individual from a particular company working on one site profile, with another individual from that company testifying against a Subtitle D claim in Alaska. **Mr. Elliott** clarified that **Mr. Miller** was inquiring into whether that was a perceived conflict, even with affiliations disclosed, and how it was handled. **Mr. Miller** confirmed that it was.

Dr. Dan McKeel
Washington University

Dr. McKeel commented on the TBD for the Mallinckrodt site. Specific areas of concern from his perspective as a pathologist were cited. He noted that the document's recent release had not allowed for an in-depth review. He cited two additional studies by **Dr. Nancy Dupre-Ellis** which were not included in the profile and wondered why.

An additional concern expressed by **Dr. McKeel** is disclosure of the number of workers for whom there is incomplete radiation exposure data.

Ms. Nancy Adams

United Nuclear Weapons Workers

Ms. Adams spoke on behalf of her father, a long-time Mallinckrodt employee. **Ms. Adams** described difficulties she had encountered relative to missing records for his employment period, noting that her father had been a part of the Dupre-Ellis study referred to by **Dr. McKeel**.

Mr. James Mitulski

United Nuclear Weapons Workers

Mr. Mitulski spoke on behalf of his father, a former Mallinckrodt worker. **Mr. Mitulski** was also familiar with the issue of missing records, noting some people had only been able to prove their employment through Social Security records. Some of those people are now claimants.

Mr. Mitulski described incidents his father had been involved in during his employment at Mallinckrodt. He expressed an opinion that granting of SEC status is dependent upon effectiveness of a state's legislators.

Ms. Barbara Smiddy

G. B. Windler Florist

Ms. Barbara Smiddy spoke to the Board about her father's employment at the Small Arms Factory at Weldon Spring during World War II. She believed his health problems were related to his employment. She described what she perceived as being bounced from one agency to another.

Ms. Denise Brock attempted to respond to some of **Ms. Smiddy's** questions with information she had gathered through her efforts.

Mr. Richard Miller

Government Accountability Project

Mr. Miller asked to be allowed to raise a follow-up question on the availability of the IMBA model so that dose reconstructions can be independently evaluated. **Dr. Neton** responded that they had inquired of the contractor who provided the program and was advised that a web-based version was not available. It is a proprietary-type calculation engine customized for NIOSH application.

Dr. Neton added that, while not convenient, it is available for use in the NIOSH public reading room.

Mr. Miller asked if money was necessary to make it accessible to the public, and how the Board was going to do its work if it were not available to them. Dr. Neton answered that their licensing agreement allowed use by the Board and the contractor.

Mr. Miller asked if there were anywhere on the earth other than Cincinnati where it could be made available, or if there were some practical solution, like \$10,000, to make the problem go away. Mr. Elliott replied that the only practical solution for those who cannot make use of the availability NIOSH can provide is to purchase the software and get a license themselves. It is a licensure issue only. Mr. Miller contended it was a real problem to use proprietary software not available to the public to make decisions about a public compensation program. Mr. Miller opined that he had been patient, but NIOSH needed to "grapple" a bit more on the licensure issue as it was beginning to pose a question. Dr. Neton reminded Mr. Miller that it was the software that is proprietary. The methodology is generally available to the public.

Mr. Mark Griffon suggested the DOL resource centers might be a place it could be made available. Dr. Ziemer noted the point had been made and the staff could explore whatever was out there. Mr. Mitulski suggested the public library or some government building. Dr. Ziemer observed that probably no one present was fully aware of the licensing issues. The point had been made and may be worth following up.

Dr. Melius asked if any progress had been made on providing public access or opportunity for input and comments on the site profiles. Mr. Elliott deferred elaborating due to Dr. Neton's scheduled presentation on the subject the following day. He did explain that the site profiles have been placed on the web site. Hard copies are available for those with no internet access, if requested. They ask for written comments to be provided the Docket Office, which tracks written comments on a variety of publications. Comments would then go on the web site or be available upon request.

NIOSH will go to sites where the TBD or site profile has been approved and share it in a meeting with labor representatives from the site, explaining it to them. They will provide examples of dose reconstructions built from the document so they understand how the reconstructions work and where the profiles are critical in the process. They will ask for their comments.

Dr. Melius inquired if a meeting is scheduled in St. Louis for the Mallinckrodt profile. Dr. Neton answered that he would be discussing the Mallinckrodt document the following day, but they did not have a general meeting to discuss Mallinckrodt. Since the facility is no longer in operation, it's difficult to identify organized labor representatives to present it to.

Dr. Melius expressed his disbelief, given the comments heard from the public. He opined it wouldn't be difficult to pull together a group of people with knowledge of the facility and representational interest.

Mr. Michael Gibson asked if it wouldn't be more efficient to add workers to the site profile teams before the documents are finalized rather than getting comment afterwards. Dr. Neton asked if he might defer responding until after his presentation tomorrow. Mr. Gibson agreed.

Mr. Tom Horgan of Senator Bond's office asked if there was not going to be a discussion of the Mallinckrodt site profile the next day with feedback from the Board. He pointed out that, because he worked with the authorizing committee that has legislative oversight over NIOSH, DHHS and DOL, that was his primary purpose for being present. Dr. Ziemer indicated that was included in tomorrow's schedule.

Dr. Melius explained he had been referring to having workers from a site involved in the development of the site profile. A second portion had been to have a public session for NIOSH to present the site profile and receive comment or answer questions.

Ms. Denise Brock observed that while Mallinckrodt had once been independent, the union for the facility became the UAW. She noted that the biggest wealth of information is the former workers, who have amazing stories and memories. She asked if there would be time to let those workers speak tomorrow if she could get them to the meeting.

Mr. Elliott commented that at the August Board meeting in Cincinnati, individual comments were heard and considered. His response to Dr. Melius had addressed how NIOSH will handle the roll-out of the TBDs or site profiles. The documents will be taken into the field to solicit comment and input. This Board meeting in St. Louis is the first step to talk about the recently-developed TBD for Mallinckrodt. Tomorrow will provide an introduction, with Board and public comment welcome. As with all the TBDs, it will be brought back. It is not the final step.

The suggestion from **Mr. Gibson** to put workers on the site profile teams was heard and was not a viable solution. NIOSH has opted to go out and present the documents, present examples of dose reconstructions, help people understand how the documents are used and what a dose reconstruction looks like and take their comments. NIOSH needs comments to the written record. Due consideration was given to individual comments of the Board, and NIOSH is proceeding along the course outlined.

Mr. Melius expressed his confusion because **Dr. Neton** had said there was no meeting and **Mr. Elliott** was saying there would be meetings. **Mr. Elliott** noted that **Dr. Melius** had asked if a meeting had been scheduled. It has not. This Board meeting is the first step.

Mr. Gibson offered that the legislators and the President who signed the bill felt it necessary to balance the Board with doctors, scientists and workers. Those workers should be involved in every step possible in the process. And while workers may not fully understand the science, they know when they were sent into a room and an alarm went off; the professionals turned the alarm off and told them to go back in, it was just radon when it was something else. **Mr. Gibson** opined those may be the same people who wrote the site profile, and it seemed blatantly unfair.

Mr. Elliott responded that he agreed with **Mr. Gibson**, and that there are points in the process where that information is solicited. One step is the interview. With the site profiles has been added the opportunity for field visits, hearing comments and asking those people to make written comment. **Mr. Elliott** expressed his hope that **Mr. Gibson** understands effort has been made to bring worker perspective into the process in more ways than just sitting on the Advisory Board.

With no further comments, the Board officially recessed until the following morning.

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Wednesday, October 29, 2003

ADMINISTRATIVE/HOUSEKEEPING

Dr. Ziemer called the second day to order. The meeting commenced with administrative and housekeeping matters. The first issue before the Board was review and approval of the draft minutes of the seventeenth meeting.

REVIEW AND APPROVAL OF DRAFT MINUTES

A motion to approve the Executive Summary and Minutes of the seventeenth meeting was seconded and unanimously passed.

Mr. Larry Elliott offered the assistance of NIOSH in response to any correspondence and/or telephone calls Board members may be receiving from claimants or interested parties. He noted NIOSH would like to have a sense of the types of inquiries being received by Board members. The staff would be happy to assist in members preparing their own responses, or NIOSH could handle the response for them and provide a copy for their files.

Drs. Paul Ziemer, Roy DeHart, and Genevieve Roessler all indicated they had received such communications. Ms. Wanda Munn offered her manner of responding to verbal inquiries and telephone calls, noting that she had not received any written communications.

Mr. Elliott agreed Ms. Munn's response was appropriate. He indicated NIOSH stood ready to help in any way the Board preferred.

Ms. Cori Homer reminded the Board of the importance of providing her with their e-mails of meeting time, prep time, and working group time. She also requested that Board members not make their own flight arrangements, if at all possible, because reimbursement could not be guaranteed.

Ms. Homer announced that the annual report to GSA covering accomplishments and activities of the Board would be available around mid-December. She asked if anyone had interest in receiving a copy of the report.

Dr. Ziemer inquired into the length and format of the report. Ms. Homer responded it was approximately four to five pages, covering general financial information and activities of the Board for the