

**THE ADVISORY BOARD ON RADIATION AND WORKER HEALTH
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH
CENTERS FOR DISEASE CONTROL AND PREVENTION**

Summary Minutes of the Forty-fifth Meeting
held telephonically on April 5, 2007

The Forty-fifth Meeting of the Advisory Board on Radiation and Worker Health (ABRWH or the Board) was held telephonically on April 5, 2007. The meeting was called by the Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH), the agency charged with administering the ABRWH. These summary minutes, as well as a verbatim transcript certified by a court reporter, are available on the internet on the NIOSH/Office of Compensation Analysis and Support (OCAS) web site located at www.cdc.gov/niosh/ocas.

Those present included the following:

Board Members:

Dr. Paul Ziemer, Chair; Ms. Josie Beach, Mr. Michael Gibson, Mr. Mark Griffon, Dr. James Lockey, Dr. James Melius, Ms. Wanda Munn, Mr. Robert Presley, Dr. Genevieve Roessler, and Mr. Phillip Schofield.

Designated Federal Official: Dr. Lewis Wade, Executive Secretary.

Federal Agency Attendees:

Department of Health and Human Services:

Ms. Downs, Mr. Larry Elliott, Dr. James Neton, Mr. Dave Sundin (NIOSH); Ms. Emily Howell, (Office of General Counsel); Ms. Chia-Chia Chang (Office of the Director of NIOSH); Ms. Anstice Brand, (CDC Washington).

Contractors:

Dr. Hans Behling, Ms. Kathy Behling, and Dr. John Mauro, Sanford Cohen & Associates.

Congressional Staff:

Ms. Michele Jacquez-Ortiz, Congressman Tom Udall's office.

Members of Congress:

Senator James Bingaman, New Mexico.

Other Participants:

Ms. Kay Barker, Ms. Terrie Barrie, ANWAG; Mr. Allen Callaway, Mr. Ray Beatty, Fernald Medical Screening Program; Mr. Mike Kessler, 5280 Magazine; Mr. John Ramspott, General Steel Industries and Dow claimants; Dr. Dan McKeel, Southern Illinois Nuclear Workers.

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INTRODUCTIONS AND WELCOME

Dr. Wade called roll and found a quorum to be present, and the meeting was officially called to order. **Dr. Wade** made note of a few points of etiquette for telephone meetings, requesting that participants identify themselves when they speak. He also asked that participants mute their phones, if possible, when not speaking.

Dr. Ziemer announced that Senator James Bingaman from New Mexico had indicated his desire to address the Board at noon concerning the Los Alamos petition. Any business being conducted at the time the Senator was connected on the call would be suspended in order for him to deliver his thoughts to the Board.

Ms. Michele Jacquez-Ortiz indicated that, depending on the Senator's comments, she might wish to add a comment on behalf of Congressman Tom Udall.

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**LIMITING TIME OF INDIVIDUAL
PUBLIC COMMENT**

Dr. Ziemer indicated several Board members were concerned that some public commenters were making lengthy statements, causing other participants to become discouraged and leave without speaking. The question arose as to whether the Board should impose time limits on commenters.

Dr. Ziemer read into the record a fax he had received from ANWAG, a worker advocacy group, urging that any limitations be not less than ten minutes.

Dr. Wade noted the Board has been very accepting with its time, but the issue was that some people felt they couldn't stay and so left before having the opportunity to make their comments.

Discussion Points:

- The same individuals get up meeting after meeting and read the same comments each time, often taking up to 30 minutes.
- If someone has a presentation that will exceed 10 minutes, they could clear it first with the Chair or the DFO.
- Priority should be given to people who have not previously had an opportunity to speak to the Board.
- Exceptions have to be made for SEC petitioners.
- The sign-in sheet could reflect the amount of time needed, with those needing longer moved toward the end of the session.
- Petitioners are given a separate time for expression of their comments. The issue is the general public commenters.
- If a commenter is addressing an issue specific to a site of particular interest at a given meeting, they might be given priority even if not a new speaker.
- Long technical comments could be presented in writing, with a summary of the comments made verbally within the time limitation.
- The full comments would not be a part of the meeting transcript if presented in writing, but could be posted on the web site.
- The information from long presentations is often complex, and when presented in writing would give the Board members an opportunity to review them without having to wait for the completed transcript.
- The gist of those lengthy comments, presented verbally, would be more than adequate for most people.

Dr. Ziemer indicated that he would not ask for a formal motion, but he would take it as the sense of the Board that a 10-minute time limit will be imposed on public speakers at future meetings; effort will be made to prioritize the list of speakers in terms of time needed and whether they are first-time attendees; written comments will be asked for in the case of those with more complex or lengthier pieces of information to present to the Board.

Dr. Wade agreed that written comments could be posted on the web site, and indicated he would work to design a sign-in sheet that conveys the Board's wishes and enables the prioritization process. He remarked he would try to get it out to everyone before the next meeting and possibly use the sign-in sheet then.

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**REVISIT BOARD POLICY ON SC&A
VISITS TO THE HILL**

Dr. Ziemer reminded the Board that from time to time its contractor, SC&A, is requested to brief various congressional staff members. The issue has to do with whether there should be a requirement that a Board member or members be present during such briefings. Since this issue has come up in the past, **Dr. Wade** provided members with pertinent pages from those meeting transcripts which contained the discussion.

Dr. Wade explained the agency issues between HHS and the relationship with congressional staff and various government contractors, of which SC&A is one. The Secretary and the contracting officer instruct contractors as they think appropriate under the contract. It will likely continue to be the policy that the Hill would have unfettered access to SC&A, as appropriate.

Maintaining the intention to act within the spirit of the Board's policy, **Dr. Wade** went on to explain it was felt the current policy is consistent with that. Should the Board adopt a policy refusing Hill visits, he could not promise the Department would act consistent with such a change.

Dr. Ziemer explained currently when SC&A receives a request, **Dr. John Mauro** notifies **Dr. Wade** and the Chair a request has been made, who made it and when. After the visit, a written report of the discussion, items addressed, questions asked and answered is provided. **Dr. Wade** added Board members are also notified of the request, and any who would like to participate are welcome to express such interest. Any such request is then made to the congressional entity initiating the briefing. If agreeable, the Board member may attend. If the congressional office says no, that wish is honored.

Caveats include that SC&A must be careful to inform the Board is often looking at draft material. Participating Board members need to identify whether they're conflicted on a site in question. And Board members don't speak for the Board unless they've been authorized to do so.

Dr. Ziemer observed the issue is whether the Board should demand or make mandatory a Board presence in such briefings. If so, it would go as a recommendation to the Secretary. Whether the Secretary would honor it is a separate question.

Discussion Points:

- Comments that come back to the Board from congressional members and their staff make it clear that the contractor is seen as an auditor, not a reviewer.

- It is important for both the Board and the staffers to understand the status of the materials and the status of the presenters.
- SC&A has tried to make that clear, though not always successfully.
- It's also clear many times congressional staff has had information provided to them long before the visits.
- There seems to be an adversarial component in the congressional view of Board activities, which is perhaps why it has not always been possible for Board members to participate in the interactions.
- That is a cause for legitimate concern by the Board and the agency.
- Are the questions and answers recorded during meetings.
- A meeting summary is prepared by SC&A.
- Originally those summaries were sent only to **Dr. Ziemer** and **Dr. Wade**, but SC&A has recently begun sending them to all members.
- They provide an education as to the concerns of the congressional members.
- SC&A will provide a full set of all summaries to all Board members.
- Logistically, SC&A is better positioned to attend such meetings.
- Their invitations are often to provide technical updates on issues raised by a constituency, perhaps assurances a particular issue is getting appropriate review, and SC&A is often more up to date on that.
- Access to the contractor adds to the overall credibility of the program.
- With the summaries, any concerns about the way an issue was raised or handled can be discussed with SC&A or **Dr. Wade**.
- Board members should be notified as soon as possible.
- The summaries have not been but could be posted on the web site.
- Summaries should identify the principal staff members present, as well as SC&A personnel.
- If a Board member's request to participate is denied, it should also be included in the summary.

Ms. Jacquez-Ortiz remarked she had raised concern about the issue following a recent meeting. After an opportunity to speak with **Ms. Wanda Munn**, who clarified the Board's concern, **Ms. Jacquez-Ortiz** said she had not fully understood and found the Board's proposal reasonable. Noting she could only speak on behalf of Congressman Udall's staff, she offered they would feel comfortable with the Board's proposal.

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**REVIEW OF COMPLETENESS OF
BOARD REVIEWS**

Dr. Lewis Wade

Dr. Wade offered three issues that had come up in discussions with various Board members as matters to consider in the scope of the Board's reviews. They are instructions to dose reconstructors, the PERs or Program Evaluation Reviews, and tracking issues to closure.

Mr. Larry Elliott provided a more comprehensive explanation of when and why a PER is developed, and what information it provides.

Dr. Ziemer noted no action is needed today, but the topics are raised for future consideration.

Discussion Points:

- The Board has never come to grips with tracking through to closure, and issues are raised in so many settings that a formal method for doing so is needed badly.
- Perhaps some process could be suggested at the next full Board meeting.
- SC&A has an apparently good system it uses to track items they're working on, status, et cetera.
- All identified issues, regardless of the type of review that brought it to light, are contained in a matrix. A paper trail exists and with a little work it could be pulled into a separate list for formal tracking.
- NIOSH also has a growing list of items being tracked, which are primarily what it considers global issues, in an effort to not have to address them in every site profile or dose reconstruction review in which they occur.
- Some linkage between matrices is needed to keep issues from falling through the cracks.
- There is nothing to convey to the agency that an issue has been identified in a workgroup and that it should be added to the agency's list of global issues.
- When an issue has been resolved, a method is needed for that closure information to flow back to the originating review document.

The discussion was suspended temporarily in order for **Senator Bingaman** to address the Board.

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COMMENTS ON LOS ALAMOS
SEC PETITION

Senator James Bingaman

Senator Bingaman indicated he only wanted to comment briefly that the [Name Redacted]SEC petition for Los Alamos was very important in his state. He reminded the Board that the Laboratory had not been filled with theoretical physicists and chalkboards, but was the nation's prototype laboratory for building the components of the nuclear arsenal. While the testing of highly radioactive materials was cutting-edge, 60 years ago they knew little about what they were doing and there was little focus on the health impact. There was little, if any, measurement of internal exposures. The Senator urged recommendation of the SEC petition so that some of the elderly individuals can find compensation, and asked that his comments be taken into consideration.

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Ms. Michele Jacquez-Ortiz,
representing Congressman Tom Udall

Ms. Jacquez-Ortiz echoed the Senator's remarks, noting the Congressman and his staff were working closely with the Senator's staff regarding concerns raised about the class definition. She expressed hope that, working with NIOSH and DOL, some of those concerns could be addressed before the May meeting.

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COMPLETENESS OF BOARD REVIEWS
(Continued)

Dr. Wade defined the tracking issue as having two sides. One is to be sure that, when issues are raised, they're captured to be worked on. The other side is that when they're resolved, that information flows back to the originating venue so the review can be closed with certainty.

Dr. Ziemer suggested at the next meeting SC&A might tell the Board what they could do in terms of tracking because a part of it seems to be a database issue, capturing and tracking. For the Board's side, a workgroup might be needed to consider how to best address the issue and what is needed. Also important is if this would fall under an existing SC&A task.

Dr. Wade suggested a conference call between NIOSH and SC&A to explore possibilities, and then get the contracting officer involved. Without

getting into a full Board meeting, interested members could at least sit in on that conversation.

Additional Discussion Points:

- PERs could be tied back to review matrices.
- The instructions or guidelines issue is scheduled for discussion at the next meeting of the subcommittee.
- The guidelines are ever-changing and not proceduralized, but it would be helpful to have whatever guideline was used for a particular dose reconstruction placed in the case file as additional information should that case be reviewed during the audit process.
- The subcommittee will take a first look at that issue and report back to the Board.

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**ASSIGNMENT OF TWO-MEMBER TEAMS
TO REVIEW INDIVIDUAL DRs**

Dr. Ziemer reminded everyone the subcommittee had recommended 28 cases for review in Round Seven. The teams were rearranged from 3-member teams to 2-member teams, as follows: Poston/Presley, Roessler/Lockey, Griffon/Clawson, Gibson/Ziemer, Melius/Schofield and Munn/Beach. **Dr. Ziemer** explained he had assigned five cases to most groups, with two groups having four cases.

Because the list contained identifiers which could not be made public, assignment of cases was attempted using POC and site as substitute identifiers. It became apparent that method was confusing. **Dr. Wade** and **Dr. Ziemer** agreed to get together and clarify the assignments, and **Dr. Wade** would send them out for comment. If none were heard, they would assume the assignments were made. **Dr. Wade** noted this would happen quickly as SC&A needed the assignment information so they could proceed with their work on this seventh set of case reviews.

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**BOARD CORRESPONDENCE
LETTER FROM DR. LAURENCE FUORTES**

Dr. Ziemer announced he had distributed a number of letters and asked **Mr. Elliott** to put the correspondence from **Dr. Fuortes** into procedural perspective.

Mr. Elliott indicated an SEC petition had come forward from **Dr. Fuortes** which dealt with a time frame and work activities not included in the previous class established for Ames University. The correspondence provided information that is being considered within the NIOSH evaluation of that petition and will be reported to the Board in May or June.

A second set of correspondence from **Dr. Fuortes** related to his petition submission regarding workers at the Pantex facility over a number of years. NIOSH consulted with **Dr. Fuortes** and two other petitioners concerning elements of information needed in order for that petition to qualify for evaluation. **Dr. Fuortes** wanted to appeal the determination that there was no remedy to the petition's deficiencies, and ask that the Board look into the situation. Thereafter **Dr. Fuortes** did provide new information and **Mr. Elliott** has informed him the petition is still under evaluation. Another consultation will take place to explore whether the additional information has indeed cured the deficiencies. If not, the option for appeal remains open. **Dr. Fuortes** has been so informed.

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SCHEDULE OF FUTURE BOARD MEETINGS

Dr. Wade announced that he had received a request for one change on his previously-provided schedule of Board meetings through June 2008. Therefore he was proposing the face-to-face meeting scheduled for March 25-27, 2008 be changed to April 9-11, 2008. He asked if there were any major conflicts that would cause a problem with the change.

With no objections raised, the change was made.

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BOARD WORKING TIME Working Group Updates

Subcommittee on Dose Reconstruction
Mr. Mark Griffon, Chair

A meeting is planned for April 11 to go over the fourth set of reviews. The updated matrix from NIOSH on the fifth set was just received, along with other items such as the DR guidelines.

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Nevada Test Site Site Profile,
Mr. Robert Presley, Chair

The group met on the 15th and went through 20 of the 25 or 26 issues. A conference call is scheduled for the 18th (months not specified).

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**Savannah River Site Site Profile,
Mr. Mike Gibson, Chair**

The Q-cleared members of the group visited the Savannah River facility and went through the classified database. They had to leave their notes for classification review and they have not yet been returned. There remain a few open questions related to the database.

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**Rocky Flats Site Profile and SEC Petition,
Mr. Mark Griffon, Chair**

SC&A has a number of reports due the group which are undergoing an expedited privacy review. A draft final report is expected to be delivered within a day. SC&A made a trip to the Rocky Flats records center and checked some of the 450 boxes, primarily to follow up on the question of relevant logbooks for time periods not captured in the original action. While some information may have been found, it is not expected to change any conclusions.

There was a technical call between NIOSH and SC&A on neutron/photon ratio issues. This will be followed up in the SC&A final report. It is expected the workgroup will need to address that issue a bit further at a scheduled April 19th meeting.

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**Chapman Valve SEC Petition,
Dr. John Poston, Chair**

In **Dr. Poston's** absence, **Dr. Wade** indicated his recollection was that the group had met on February 23 and was scheduled to meet again on April 10. Workgroup member **Dr. Genevieve Roessler** confirmed.

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**SEC Issues
(Including 250-day Issue and 83.14 Petitions),
Dr. James Melius, Chair**

This group has not met since the last Board meeting. There is some NIOSH information-gathering being done, primarily related to NTS, that will take some time, so they're waiting for that.

SC&A has finished a draft report related to the 250-day issue relative to the Ames Lab and the workgroup's findings. That report will be sent out shortly.

There is an 83.14 petition pending on the W.R. Grace plant. There has been an area set up on the O drive regarding that site for the workgroup's use. After the individual members take a look at the material, a decision can be made whether to schedule a workgroup conference call before the next Board meeting.

There is no meeting currently scheduled.

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**SEC Petitions, Failed to Qualify,
Dr. James Lockey, Chair**

The group met on March 28 with Ms. Laurie Ishak-Breyer and Ms. Denise Brock participating by phone, and four additional recommendations came from that. A draft of all recommendations was sent to the working group members. No objections have been received, so those recommendations will be formally presented to the Board at the next meeting.

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**Hanford Site Profile,
Dr. James Melius, Chair**

The group met in Cincinnati recently, primarily focusing on the neutron exposure ratio. NIOSH is gathering some documents that will be useful and will be available on the O drive. The next meeting will depend on review of further documents.

There is also currently a Hanford SEC petition, and the workgroup's focus on the neutron issue is expected to be relevant to the petition evaluation. The group is going in a direction to be able to address the evaluation report when it is completed by NIOSH in a month or two.

Drs. Wade and Ziemer agreed the workgroup's name should be changed to reflect its new thrust and will henceforth be known as the Hanford Site Profile and SEC Petition workgroup. It was also noted that **Mr. Phillip Schofield** has joined that group.

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**Board Conflict of Interest Policy,
Dr. James Lockey, Chair**

A meeting is scheduled for May 11. **Ms. Emily Howell** from counsel's office has sent out to all workgroup members a background notebook of the current policies and procedures for SC&A, NIOSH and other federal advisory boards where there is an established COI policy.

Any workgroup member who did not receive the notebook should contact **Ms. Howell** directly for a copy.

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**Procedures Review,
Ms. Wanda Munn, Chair**

This group has not met, nor has a date been established for a first meeting. NIOSH will be providing information on upgraded procedures by late May.

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**Blockson Chemical SEC Petition,
Ms. Wanda Munn, Chair**

The workgroup has not formally met, though members have met with workers. The thorium/uranium relationship was the primary issue necessitating a redo of the plant site profile. That has been undertaken by chemical experts and is in the process of being written. Until the release of the corrected site profile, the workgroup has nothing to go on. When that will occur has not been announced.

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**Fernald Site Profile and SEC Petition,
Mr. Brad Clawson, Chair**

In **Mr. Clawson's** absence, workgroup member **Mr. Mark Griffon** reported the group has not met. **Dr. Wade** noted NIOSH's responses to the matrix prepared by SC&A will trigger a meeting. That work is underway, and a meeting is anticipated after May 11.

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**LANL Site Profile and SEC Petition,
Mr. Mark Griffon, Chair**

This group's first meeting is anticipated sometime after the May Board meeting.

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**Linde Site Profile,
Dr. Genevieve Roessler, Chair**

The group met on March 26 and went over approximately 20 items on the SC&A-prepared matrix and the NIOSH responses. Resolution on many items will relate to a new exposure model NIOSH will derive from 700 newly-found bioassays.

No further meeting date has been set. Information is pending from both NIOSH and SC&A. After its receipt, the group will report back to the Board on its status.

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**Worker Outreach,
Mr. Mike Gibson, Chair**

The group has not met. A draft scope is being compiled for circulation to the workgroup soliciting their input. Information is being gathered relative to points of contact for outreach centers, OCAS interviewers, et cetera.

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NIOSH PROGRAM UPDATE

**Mr. Larry Elliott,
OCAS**

Mr. Elliott reported on five items. The first was to advise the MOU with the Department of Energy will expire at the end of the fiscal year, or September '07. Work is underway to have a new MOU in place before that time.

The second item addressed the six findings arising from the Bethlehem Steel site profile working group. NIOSH had been asked to track the progress and **Mr. Elliott** has been reporting on that from time to time. NIOSH feels those issues have been resolved and are reflected in the Bethlehem Steel revised site profile.

Thirdly, a GAO review has been underway since mid-June of last year entitled "Contractor Costs in the Energy Employees Program." The review has been thorough and has recently focused on the COI policy put in place last October by the Director of NIOSH. The GAO people will soon visit the Procurement Grants Office to look at all the contract files in place there. A report at the conclusion of the review is anticipated later in the fall.

The fourth item was a status report on current and upcoming SEC petitions for Board planning purposes. The seven petition evaluations under or ready for Board deliberation include Rocky Flats, Los Alamos, Bethlehem Steel, Sandia National Lab Livermore, W.R. Grace, Dow Madison and Y-12. The nine on the immediate horizon include Blockson, Hanford; the Ames, Iowa Lab; and six 83.14 petitions unspecified currently but expected to come to maturity before the July Board meeting.

The fifth item was to report that in the seventh month of the '07 fiscal year, resource limitations are being faced. This is a result of a loss of \$14 million for program funds over the last three years. Funds were set to cover overhead rates equal to about 9% on any monies transferred to the program. NIOSH budget requests have been reduced by 9% each year through appropriations in order to exclude the CDC overhead, and further reduced because CDC continues to take the overhead rate. This has been appealed annually by NIOSH to CDC and to OMB through the Department of Labor. Differences in interpretation has resulted in the \$4.5 million earmarked for the Board, which NIOSH considered to be in addition to its request for program funds, being included in their allocation.

Mr. Elliott discussed the potential ramifications if the CDC overhead is not restored to the program. NIOSH will maintain dose reconstruction production and SEC evaluation activities as top priorities. When the ORAU contract expires, award of a new contract for technical support may be delayed. The time and pace and level of OCAS support to the Board and workgroups will likely also be reduced.

Dr. Wade agreed that the direct impact to the Board would likely be pace of closeout activities since resources from ORAU and other contractors are used. Secondly, the pace at which SC&A might be involved in the review process could be slowed. Longer periods of time between the ability to iterate on matrices could affect the schedule of workgroup meetings, as well as the pace at which SC&A is asked to respond.

Discussion Points:

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- There is a staggering amount of material to be dealt with by the Board by July.
- Receiving as much material as possible in advance of Board meetings will enable a more thorough review ahead of time and thus be more efficient.
- The material could be sent electronically rather than in the large, hard-to-pack binders.

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With no further business to come before the Board, the meeting was adjourned at 1:23 p.m.

End of Summary Minutes

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I hereby confirm these Summary Minutes are accurate, to the best of my knowledge.

Paul L. Ziemer, Ph.D., Chair

Date