

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

convenes

MEETING FIFTY-SIX

ADVISORY BOARD ON  
RADIATION AND WORKER HEALTH

VOL. I

DAY ONE

ABRWH BOARD MEETING

The verbatim transcript of the  
Meeting of the Advisory Board on Radiation and  
Worker Health held at the Millennium Hotel,  
St. Louis, Missouri, on June 24, 2008.

STEVEN RAY GREEN AND ASSOCIATES  
NATIONALLY CERTIFIED COURT REPORTERS  
404/733-6070

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June 24, 2008

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

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

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

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**P R O C E E D I N G S**

(1:00 p.m.)

**WELCOME AND OPENING COMMENTS****DR. PAUL ZIEMER, CHAIR****DR. CHRISTINE BRANCHE, DFO**

1           **DR. BRANCHE:** If someone on the phone could  
2           please let me know that you can hear me, I'd  
3           appreciate it. Could you let me know?

4           **UNIDENTIFIED:** We hear you.

5           **DR. BRANCHE:** Thank you so much. I am formally  
6           beginning the Advisory Board on Radiation and  
7           Worker Health. This is meeting number 56. We  
8           are meeting in the lovely St. Louis, Missouri.  
9           I'm Dr. Christine Branche and I have the great  
10          honor to serve as your Designated Federal  
11          Official, also known as Executive Secretary.  
12          For those of you in the room, the emergency  
13          exits are through this door to my left, and  
14          then straight out. Unfortunately, to exit to  
15          the street we would need to go up the  
16          staircase. We have some persons with  
17          disability in the room, which means that if the  
18          alarm were to sound we would need some  
19          assistance in helping the people with  
20          disability -- disabilities out of the room. I



1 don't anticipate any problems, but you ought to  
2 know where the emergency exits are, should that  
3 arise.

4 We do have a redaction policy. That policy is  
5 that if -- let me read it formally.

6 If a person making a comment gives his or her  
7 name, no attempt will be made to redact your  
8 name from the meeting transcript. Understand  
9 that at a future date the meeting transcript  
10 will be posted on the public web site.

11 NIOSH, the National Institute for Occupational  
12 Safety and Health, will take reasonable steps  
13 to ensure that everyone who makes a public  
14 comment is aware of the fact that your comments  
15 will be included. Your name and what you said  
16 will appear in the transcript of the meeting  
17 and it will be posted.

18 Including the reading of this statement to you  
19 today and at the beginning of each public  
20 comment period, that's our first attempt to let  
21 you know what will happen. This statement also  
22 appears at the table, and was posted with the  
23 agenda and the *Federal Register* announcement.  
24 If an individual, in making a statement,  
25 reveals personal information -- for example,

1           medical information -- about themselves, that  
2           information will not usually be redacted. The  
3           NIOSH Freedom of Information Act coordinator  
4           will, however, review such revelations in  
5           accordance with the Freedom of Information Act  
6           and the Federal Advisory Committee Act and, if  
7           deemed appropriate, that information will be  
8           redacted. And by redacted, I mean removed from  
9           the record, blacked out. All disclosures of  
10          information concerning third parties will be  
11          redacted.

12          And if it comes to my attention that an  
13          individual wishes to share information with the  
14          Board, but objects to doing so in this public  
15          forum, then I will work with you to be able to  
16          get the information to the Board without  
17          revealing your identity, but you would need to  
18          come to me personally.

19          With that, I would announce the names of the  
20          Board members for our roll call, and then we'll  
21          get started. Dr. Ziemer?

22          **DR. ZIEMER:** Yes.

23          **DR. BRANCHE:** Ms. Beach?

24          **MS. BEACH:** Yes.

25          **DR. BRANCHE:** Mr. Clawson?



1 public comment periods. It is critical that  
2 all participants by phone mute their lines. If  
3 you do not have a mute button, then please use  
4 star-6 to mute your lines. You would then un-  
5 mute, or use the star-6 to un-mute your lines  
6 when you are ready to speak.

7 If you must temporarily leave the line, please  
8 do not put the phone on hold. We would then  
9 all be subjected to whatever sound your hold  
10 button would have us go through.

11 Again, it is critical that every person  
12 participating by phone mutes their line. Even  
13 the slightest sound is picked up by the phone  
14 line and then interrupts the ability for all  
15 phone participants to hear what's going on in  
16 the meeting room. We very much appreciate your  
17 cooperation. Thank you so much.

18 Dr. Ziemer?

19 **DR. ZIEMER:** Thank you. It's my privilege to  
20 formally call to order the meeting of the  
21 Advisory Board on Radiation and Worker Health.  
22 We're pleased to be in St. Louis. We've been  
23 here several times before. And I want to go on  
24 record to tell you that the presence of Ted  
25 Drewe's frozen custard has nothing to do with

1 the fact that the Board chooses St. Louis to  
2 meet from time to time.

3 There are copies of the agenda and related  
4 written information on the tables in the back  
5 of the auditorium. Please make those available  
6 to you if you haven't already done so. Also,  
7 as Dr. Branche has indicated, we do ask you to  
8 register your attendance with us on the  
9 registration form or registration booklet  
10 that's out in the corridor.

11 Also we will have an opportunity for public  
12 comment later this afternoon. If you wish to  
13 make public comment, please sign up in the  
14 public comment book. If you wish to do that  
15 and haven't done so already, you can do that  
16 during the break. We like to get some idea of  
17 how many individuals will be commenting so we  
18 can plan for the time accordingly.

19 I believe that's all the housekeeping items  
20 that we have as we open our meeting today. We  
21 have a number of topics that we will be  
22 discussing, which involve a number of sites  
23 around the country, involving various aspects  
24 of the -- the compensation program that's  
25 operated by Department of Labor and by NIOSH

1 and Health and Human Services. And we're going  
2 to begin -- we'll follow our agenda pretty much  
3 as it's indicated. The time's always  
4 approximate. If we go over, then we will  
5 adjust accordingly; or if we finish something  
6 sooner, we will move ahead. So the times are  
7 taken to be approximate. We always have to  
8 estimate how much time things will take, and  
9 sometimes we do that pretty well and sometimes  
10 not so well.

11 **Y-12 PLANT (OAK RIDGE, TN) SEC PETITION**

12 In any event, we'll begin with the presentation  
13 on the Y-12 Plant from Oak Ridge. We have an  
14 SEC petition that will be reviewed by Stuart  
15 Hinnefeld from NIOSH, and then we'll have  
16 opportunity for the petitioners to comment as  
17 well.

18 **MR. HINNEFELD:** Thank you, Dr. Ziemer, members  
19 of the Board and members of the audience. This  
20 first petition evaluation report that I'm  
21 presenting pertains to the Y-12 Plant in Oak  
22 Ridge, Tennessee. I think it's familiar to  
23 everybody. We've done some other work on this  
24 site in other petitions.

25 A little background behind this petition -- I

1 just do two? Yeah.

2 This petition was submitted by a petitioner for  
3 whom NIOSH determined we could not complete a  
4 sufficiently accurate dose reconstruction. The  
5 petition was submitted on September 20th. This  
6 is an 83.14 part of the SEC rule, meaning we  
7 identified the class and essentially recruited  
8 the petitioner to submit the petition. The  
9 petition was qualified for evaluation on  
10 September 24th, 2007 and we determined that we  
11 are unable to complete dose reconstruction with  
12 sufficient accuracy for this class of employees  
13 at the Y-12 Plant.

14 Some background behind how we got to this  
15 point. You'll recall in July of 2005 the Board  
16 recommended the addition of an SEC class from  
17 the Y-12 Plant from March 1943 to December  
18 1947. That's the period we're talking about  
19 today. The class definition read "employees  
20 who worked" -- you know, in part. It was for  
21 "employees who worked in the uranium enrichment  
22 operations, or other radiological activities"  
23 during the specified period. At this time in  
24 the history of the program -- remember, this  
25 was pretty early on in the SEC process, and at

1           this time we had not adopted the routine  
2           practice of having the Department of Labor  
3           review our class definitions for  
4           administerability. And so we published this,  
5           believing that we had described essentially the  
6           people who could be exposed to radiation. And  
7           -- but there are a number of ways to interpret  
8           these words and so this definition did not  
9           really provide for a sufficiently clear path  
10          for interpretation --

11         **DR. BRANCHE:** Excuse me, Mr. Hinnefeld.  
12         There's a participant by phone we need you to  
13         mute your li-- there's a participant by phone  
14         we need you to mute your line, please. If you  
15         do not have a mute button, then please use  
16         star-6. Thank you.

17         So sorry, Stu.

18         **MR. HINNEFELD:** That's okay. So the class  
19         definition that was selected didn't provide  
20         sufficient clarity or specificity to allow for  
21         everybody to agree on how the interpretation of  
22         class membership should be applied. So as a  
23         result, we saw decisions about membership in  
24         the class that we didn't understand, that we --  
25         we'd see people who were, in particular,



1 excluded from the class that we thought -- we  
2 didn't really feel like we could -- we could do  
3 much of a dose reconstruction for that person,  
4 either, so we didn't understand why they  
5 weren't included in the class.

6 And this led to a series of discussions between  
7 NIOSH and the Department of Labor about what to  
8 do about this situation. And Department of  
9 Labor said we're interpreting the words on the  
10 page; you know, you wrote the words, we're  
11 doing what we can. And so after a series of  
12 discussions we determined that the best course  
13 of action would be to initiate a new class, add  
14 an additional class through 83.14 process, to  
15 get the class definition defined more in line  
16 with what we expected it to be -- what our  
17 interpretation -- we expected our  
18 interpretation to be.

19 A little bit of reminder for the Board and  
20 maybe information for the audience for the  
21 radiological operations at the Y-12 Plant.  
22 This '43 to '47 period at the Y-12 Plant was  
23 when the Y-- where they operated the Calutron  
24 devices for electromagnetic separation and  
25 enrichment of uranium. These Calutron

1 operations involved -- this was -- you know,  
2 the primary mission of them -- they're the ones  
3 who made the enriched uranium for the enriched  
4 uranium bomb at the end of the war.  
5 Calutron operations involved production of the  
6 feed material -- in other words, you had to  
7 prepare the uranium into the proper chemical  
8 form and get it so it could be fed to the  
9 Calutrons -- conversion of the enriched uranium  
10 into the final product. I believe it was  
11 enriched with uranium chloride, and then once  
12 you had it enriched up to the enrichment you  
13 wanted, you didn't want it in the chloride  
14 form. I think they probably converted it into  
15 an oxide, which then could be made into metal.  
16 And then they also had to clean the -- and  
17 reclaim uranium from the Calutron internal  
18 components, which was quite a large part of the  
19 operation because the Calutron didn't deliver  
20 all the product possible right to the target  
21 collection area and there was material that  
22 contaminated the inside of the equipment.  
23 Now there were a number of other radiological  
24 operations that occurred at the Y-12 Plant, and  
25 we -- we see references and some -- and some

1           general description of that. But we don't  
2           really know exactly what buildings those  
3           operations occurred in. We don't have a lot of  
4           detail about source term and things like that.  
5           So after reviewing the information there, we  
6           determined that we were -- or we were unable to  
7           determine that -- if any specific group of  
8           employees was not potentially exposed. Since  
9           we didn't really know essentially the extent of  
10          the radiological operations, we couldn't really  
11          partition the workforce into exposed versus  
12          non-exposed.

13          For available monitoring data that might allow  
14          us to do dose reconstructions for internal  
15          exposures, internal monitoring data, we have  
16          now found a limited number of individual  
17          uranium bioassay results from 1944/1945. I  
18          don't believe those were available in 2005, I'm  
19          not 100 percent sure of that, but it's a pretty  
20          limited set of data anyway. It only covers a  
21          fairly short period of the operation. We  
22          concluded that the available data was too  
23          limited to support internal dose  
24          reconstruction, but if -- in the event that we  
25          had a claimant with their own individual data -

1           - you know, one of the pieces of data we had  
2           pertained to a particular claimant -- we would  
3           attempt to utilize that in a -- in a partial  
4           dose reconstruction if it's a non-- a non-SEC  
5           cancer case where we have to do a --  
6           reconstruct what we can reconstruct.  
7           For external monitoring data we have not found  
8           any individual external monitoring results.  
9           In terms of workplace monitoring data, which we  
10          sometimes utilize to inform us about radiation  
11          exposures to people, we do have some direct  
12          radiation readings and qualitative summaries of  
13          those readings, but they're mainly for around  
14          the Calutron operations and they -- and a lot  
15          of them focus on the X-ray emissions from the  
16          Calutron rectifiers, a certain electrical  
17          component of the Calutron which emitted its own  
18          X-rays. And so -- and there were -- and we  
19          know that there were some actions taken to I  
20          believe install some shielded glass or  
21          something to -- or leaded glass -- in order to  
22          worry about those particular X-ray emissions,  
23          but we don't really have much information about  
24          other potential exposures or kinds of  
25          exposures.

1           There was an airborne monitoring program that  
2           was begun in 1945.  There's a -- maybe a few  
3           samples here and there, some other times.  We  
4           have some results.  We have some summary  
5           descriptions of results.  None of these samples  
6           appear to be breathing zone samples, however.  
7           They seem to be more concerned about production  
8           loss type of sampling.  You know, where's --  
9           where's material getting loose at as opposed to  
10          what are people being exposed to.  And we've  
11          not found any radiological monitoring for any  
12          of the other activities -- radiological  
13          activities that were going on at Y-12 at the  
14          site.  This monitoring program was just around  
15          the Calutron operation.  
16          We've not obtained sufficient bioassay  
17          information to support internal dose  
18          reconstruction for this class.  This is our --  
19          our determination of feasibility.  The air  
20          monitoring data is -- some air monitoring data  
21          is available, but it's not known enough about  
22          the samples.  For instance, sampling strategy  
23          frequency.  We don't know if it was  
24          representative of low, average or high exposure  
25          or low, average or high production times, so we

1 don't feel like that data is sufficient to  
2 support dose reconstruction for this class.  
3 We have no bioassay or air sampling results for  
4 other radiological operations, because they did  
5 do some things besides enriched uranium.  
6 And NIOSH has not obtained any individual  
7 external monitoring data -- well, this should  
8 actually be in a -- under a bullet called  
9 "external dose".

10 But anyway, continuing on with feasibility of  
11 dose reconstruction, we have not obtained any  
12 individual external monitoring data during this  
13 class period, and we lack the source term  
14 information about the non-uranium radiological  
15 operations to build a source term model about  
16 what the external dose might have been.

17 We do believe we can reconstruct doses from  
18 medical X-rays based on some existing technical  
19 -- project technical documents.

20 The table that we generally provide with these,  
21 the summary of feasibility -- again, this is  
22 for March 1st, 1943 through December 31st, 1947  
23 -- shows that we believe that, of the possible  
24 categories of exposure, we believe we can only  
25 reconstruct the medical -- the medical X-ray

1 exposures. At least, that's with consistency.  
2 As I said before, if we would -- if we have a  
3 claimant and that claimant happens to be one of  
4 the people who submitted a few of those bio--  
5 you know, a bioassay sample or a few of the  
6 bioassay samples, we'll make some attempt to  
7 assign a dose based on that -- on that  
8 sampling. But certainly that would only be a -  
9 - we would believe only a portion of the -- of  
10 the dose a person might have received, even  
11 from that -- even from that mode.  
12 With respect to the health endangerment  
13 determination -- recall, for a SEC petition we  
14 have to -- we must determine first of all is  
15 dose reconstruction feasible; and if it's not  
16 feasible, then we are to opine on whether there  
17 was a health endangerment at the -- to the  
18 exposed workers. In -- we did not -- have not  
19 found any evidence of a discrete incident that  
20 could have resulted in extremely high doses  
21 similar to a criticality incident. Recall,  
22 this only goes up through 1947. And evidence  
23 indicates that workers in a class may have  
24 accumulated chronic radiation exposures that we  
25 are unable to estimate, so those -- those -- so

1           -- and they could have occurred through intakes  
2 of radioactive material, or direct exposure to  
3 radioactive material. And so consequently we  
4 have concluded that the health may have been  
5 endangered for those workers covered by this  
6 evaluation who were employed for a number of  
7 work days aggregating at least 250 work days  
8 within the parameters established for this  
9 class, or in combination with work days within  
10 the parameters established for one or more  
11 other classes of employees in the SEC. I think  
12 everybody's familiar -- that's kind of our --  
13 our boilerplate language about aggregating  
14 classes. The rule provides us leeway to either  
15 say that the criteria for health endangerment  
16 is either presence or 250 days. In this case  
17 it looks like presence is not sufficient, so  
18 250 days would be the criterion.

19 The definition of the proposed class that we're  
20 proposing for this -- for this action or this  
21 evaluation is "employees of the Department of  
22 Energy, its predecessor agencies and DOE  
23 contractors and subcontractors who worked at  
24 the Y-12 Plant in Oak Ridge, Tennessee during  
25 the period from March 1st, 1943 through



1 December 31st, 1947 for a number of work days  
2 aggregating at least 250 work days, occurring  
3 either solely under this employment or in  
4 combination with work days within the  
5 parameters established for one or more other  
6 classes of employees in the SEC."

7 Our recommendation to the Board is for the  
8 period of March 1st, 1943 through December  
9 31st, 1947 we find that radiation doses cannot  
10 be reconstructed for -- with sufficient  
11 accuracy for compensation purposes. Therefore  
12 -- here's our table of feasibility and health  
13 endangerment findings, our recommendation, and  
14 I believe that ends my presentation.

15 **DR. ZIEMER:** Thank you very much, Stu. For the  
16 record, I would like to note that Mr. Presley,  
17 Board member, is conflicted on Y-12 and  
18 therefore has removed himself from the table  
19 for these discussions.

20 And Dr. Poston as well, I'm sorry, also  
21 conflicted on Y-12, so both of those Board  
22 members have removed themselves from the table  
23 for this discussion.

24 Let me open the questions, Stu, with this one.  
25 Is my understanding that this new class does

1 not necessarily replace the previous classes?

2 **MR. HINNEFELD:** Well, it sort of -- it sort of  
3 subsumes --

4 **DR. ZIEMER:** It's intended to be a  
5 clarification, but let me ask it a different  
6 way. The previous classes were administered in  
7 a certain way by Department of Labor.

8 **MR. HINNEFELD:** Yes.

9 **DR. ZIEMER:** Will those -- will continue to  
10 exist -- on paper, at least -- as classes, or  
11 do you see this as replacing the previous  
12 action?

13 **MR. HINNEFELD:** Well, we've had a situation  
14 like this before where a later class  
15 essentially subsumes the earlier class. I  
16 think it happened at Los Alamos with the  
17 radioactive lanthanum work, and then the later  
18 -- the later addition of a larger Los Alamos  
19 class. We didn't -- I don't think we actually  
20 made any action to terminate the other class,  
21 it still is out there, but the -- I think any  
22 claim coming in now and -- would probably be  
23 under -- administered under this class since  
24 it's broader and anyone who'd be included under  
25 the other class would also be included --

1           **DR. ZIEMER:** Would still be covered by this.

2           **MR. HINNEFELD:** Yes, yes.

3           **DR. ZIEMER:** Okay. So in essence this covers  
4 the previous actions and covers the issue of  
5 concern that NIOSH had --

6           **MR. HINNEFELD:** Correct.

7           **DR. ZIEMER:** Okay, thank you. Other questions,  
8 Board members?

9           **MR. GRIFFON:** This might be more --

10          **DR. ZIEMER:** Mark Griffon.

11          **MR. GRIFFON:** -- more to you, Paul. Did we --  
12 I mean we must have sent a letter regarding the  
13 '43 to '47 class, and do you have a -- a copy  
14 of that? I was wondering (electronic  
15 interference) --

16          **DR. ZIEMER:** I don't know what that -- we have  
17 some noise on the line again. We ask if you're  
18 not speaking -- and you shouldn't be, by phone,  
19 if you're on the line right now -- you should  
20 mute your phone. If you do not have a mute  
21 button, press star-6.

22          Now in reply to your question, Mark, the  
23 wording of the recommendation to the Secretary  
24 -- hold on just a moment and I have the letter  
25 to the Secretary on Y-12, and with the speed of

1 cyberspace it will finally appear. I'll blame  
2 it on the wireless network here, but it doesn't  
3 have to be hooked to that. Okay, let me read -  
4 - I think you're asking me to read the previous  
5 class definition?

6 **MR. GRIFFON:** I -- I guess. I'm assuming we --  
7 we adopted the same class definition as NIOSH -  
8 -

9 **DR. ZIEMER:** Here it is.

10 **MR. GRIFFON:** -- but --

11 **DR. ZIEMER:** (Reading) The Board recommends a  
12 Special Exposure Cohort status be accorded to  
13 all DOE contractors or subcontractors or AWE  
14 employees who worked in uranium enrichment  
15 operations, or other radiological activities,  
16 at the Y-12 facility in Oak Ridge, Tennessee  
17 from March '43 through December '47 and who  
18 were employed for a number of work days  
19 aggregating at least 250 days, occurring either  
20 solely under this employment or in combination  
21 with work days of other employment occurring  
22 with-- within the parameters -- dot, dot, dot -  
23 - so it's --

24 **MR. GRIFFON:** Did we --

25 **DR. ZIEMER:** Yeah --

1           **MR. GRIFFON:** -- the -- the --

2           **DR. ZIEMER:** -- yeah, so the --

3           **MR. GRIFFON:** -- part I'm asking about -- I  
4           guess I could pull this up to -- the part I'm  
5           asking about is did we put any provision in  
6           there to -- 'cause I notice that Stu had  
7           forwarded this to the 250-day review workgroup,  
8           so did we ask for some provision that -- I know  
9           there's one line that we've been adding to some  
10          of our recommendations saying that we will --  
11          will further evaluate whether less than 250-day  
12          time frame is warranted -- you know what I'm  
13          talking about?

14          **DR. ZIEMER:** Yes.

15          **MR. GRIFFON:** I mean I don't know if we  
16          included it in that or not, or if it is  
17          warranted, can't remember.

18          **DR. ZIEMER:** That is not addressed in this --

19          **MR. GRIFFON:** No, it's not.

20          **DR. ZIEMER:** -- petition.

21          **DR. BRANCHE:** But that previous decision was  
22          from 2005. I think you've gotten a lot more  
23          sophisticated with your language since --

24          **MR. GRIFFON:** No, I don't --

25          **DR. BRANCHE:** -- that was done.

1           **MR. GRIFFON:** -- think that's -- that's an  
2           issue there, but I mean -- Stu, you did forward  
3           this to the -- or maybe you forwarded it to the  
4           SEC workgroup, maybe I'm confused. It was --

5           **MR. HINNEFELD:** I don't think I sent it to the  
6           --

7           **MR. GRIFFON:** It was sent to --

8           **MR. HINNEFELD:** -- 250-day --

9           **MR. GRIFFON:** -- to Jim Melius's group, and he  
10          has both of those, so I'm -- I just confused  
11          that issue, but...

12          **MR. RUTHERFORD:** Mark, it was sent to Dr.  
13          Melius's SEC --

14          **MR. GRIFFON:** SEC workgroup, right.

15          **MR. RUTHERFORD:** -- workgroup. We send all the  
16          83.14 --

17          **MR. GRIFFON:** I gotcha. I was thinking it was  
18          on the 250-day issue, but --

19          **DR. ZIEMER:** No, that's simply because it was  
20          an 83.14 petition.

21          So the description here is work-- employees who  
22          worked in uranium enrichment operations, or  
23          other radiological activities, that was the...

24          **MR. HINNEFELD:** That was the original class  
25          description, yes.

1           **DR. ZIEMER:** Yeah. Other comments or questions  
2           for Stu? Now I'm going to ask -- oh, Jim  
3           Lockey.

4           **DR. LOCKEY:** Stu, does this -- does this cover  
5           everybody (electronic interference) at that  
6           site?

7           **MR. HINNEFELD:** Yes.

8           **DR. ZIEMER:** Again we're getting background  
9           noise by phone. If your --

10          **UNIDENTIFIED:** Somebody's put us on hold.

11          **DR. ZIEMER:** -- if your phone is not -- if  
12          somebody put us on hold, they're not there to -  
13          - to mute their phone.

14          **MR. GRIFFON:** I mean --

15          **DR. ZIEMER:** Yes, Mr. Griffon?

16          **MR. GRIFFON:** -- I think we're -- overall, you  
17          know, this -- this makes sense, the lan-- the  
18          proposed language. But one thing in your  
19          presentation, Stu, that I wondered about was  
20          the -- you said you had -- since we had last  
21          talked about this, you've found more urinalysis  
22          data?

23          **MR. HINNEFELD:** A little bit --

24          **MR. GRIFFON:** You -- you still --

25          **MR. HINNEFELD:** -- a little bit, found some.

1           **MR. GRIFFON:** -- didn't think that was...

2           **MR. HINNEFELD:** I don't think we had -- I'm not

3           --

4           **MR. GRIFFON:** When you say --

5           **MR. HINNEFELD:** -- I'm working from memory  
6           here.

7           **MR. GRIFFON:** -- a little bit, I think -- just  
8           for consistency purposes, we have -- as Board  
9           members, have to sort of understand what a  
10          little bit means. I think at other sites I've  
11          deemed something to be a little bit and --

12          **MR. HINNEFELD:** Right.

13          **MR. GRIFFON:** -- dose reconstructions were  
14          done, so --

15          **MR. HINNEFELD:** Right, in this -- in this case,  
16          I don't know -- LaVon, do you remember the  
17          number? I was thinking it was maybe 100 or  
18          150.

19          **MR. RUTHERFORD:** Yeah, it was -- it was right  
20          around 100, but I want to point out, too, this  
21          -- the actual data was right at the end of the  
22          actual operational period of the Calutrons, and  
23          it did not address that period where they went  
24          through major cleanup and the dismantlement  
25          period of '45, '46 and '47. So it was one --



1           like one run period of -- that they had like  
2           100 urine samples in.

3           **MR. GRIFFON:** But at the end of -- like 1947 it  
4           was done?

5           **MR. RUTHERFORD:** No.

6           **MR. GRIFFON:** No --

7           **MR. RUTHERFORD:** No, 1945 -- '44/'45.

8           **MR. GRIFFON:** Oh, it was done before the -- all  
9           the cleanup and --

10          **MR. RUTHERFORD:** Right, right, right.

11          **MR. GRIFFON:** -- other -- okay, all right.

12          **DR. ZIEMER:** Okay? Other questions? Larry  
13          Elliott.

14          **MR. ELLIOTT:** Just for the Board's  
15          understanding I'd like to point out that this  
16          issue was really brought to everyone's  
17          attention by Denise Brock, who dealt with a  
18          series of claimants who were having trouble  
19          getting their claims determined for eligibility  
20          within this class. And I think our  
21          understanding is there's probably 24 or less  
22          claims that are so affected by this action, but  
23          those 24 certainly deserve all the attention  
24          that Denise has brought to this, so I want to  
25          thank her for that.



1           you off if you do that. So please, if you need  
2           to leave the line, it's better to hang up and  
3           dial back in than to put us on hold. Thank you  
4           so much for your cooperation.

5           **DR. ZIEMER:** Thank you. Any other questions or  
6           comments for Mr. Hinnefeld?

7           If not, Stu, we thank you very much.

8           **DR. BRANCHE:** Do we need to read this --

9           **DR. ZIEMER:** Board members --

10          **DR. BRANCHE:** What about this --

11          **DR. ZIEMER:** Okay, we -- we have received a --  
12          I believe it was a FAX --

13          **DR. BRANCHE:** No, overnight mail.

14          **DR. ZIEMER:** Well, whatever -- yeah, FedEx mail  
15          -- from a petitioner, and this is -- this --  
16          copies have been distributed, I understand, or  
17          have --

18          **DR. BRANCHE:** Only to the -- no, only to the --

19          **DR. ZIEMER:** Okay.

20          **DR. BRANCHE:** -- court reporter. If this --  
21          it's fairly complicated. I don't think she's -  
22          - the person is not disputing the idea of the  
23          class. I think that there was just additional  
24          information that the petitioner wanted to bring  
25          to light. And I think that the class

1 definition takes care of this --

2 **DR. ZIEMER:** I -- I believe that's --

3 **DR. BRANCHE:** -- person's issues.

4 **DR. ZIEMER:** -- the case, and this is a very  
5 detailed description of an individual case. I  
6 don't think it would be appropriate for us to  
7 read this into the --

8 **DR. BRANCHE:** I agree.

9 **DR. ZIEMER:** -- public record because we would  
10 have to redact all of the personal information.  
11 So let's simply make copies of this available  
12 to the Board members -- includes some pictures  
13 and so on of a particular case. My  
14 understanding, this case would then be covered,  
15 anyway, by --

16 **DR. BRANCHE:** It would.

17 **DR. ZIEMER:** -- by this action, should the  
18 Board recommend it and should the Secretary of  
19 Health and Human Services so take the  
20 recommendation.

21 Board members, it would be in order to have a  
22 motion concerning this recommendation from  
23 NIOSH. Let me advise you -- and the Chair's  
24 willing to hear the motion, if you're so  
25 inclined, in simple form rather than in the

1 detailed language of the -- a memo that would  
2 go to the Secretary of Health and Human  
3 Services. But if -- if we have such a motion  
4 and it passes, then during our work session on  
5 Thursday we will provide you with the formal  
6 wording of what the action would be as it  
7 proceeded to the Secretary.

8 Ms. Munn, do you wish to make a motion?

9 **MS. MUNN:** Yes, I do. I'd like to move that we  
10 accept the recommendation that the SEC be  
11 accepted as proposed by NIOSH, and that we  
12 subsequently make that recommendation available  
13 to the Secretary.

14 **DR. ZIEMER:** Okay, you've heard the motion; is  
15 there a second?

16 **MR. CLAWSON:** Seconded.

17 **DR. ZIEMER:** Motion is made and seconded. Is  
18 there any discussion on the motion? If you  
19 vote for the motion you are voting to recommend  
20 to the Secretary that this class of workers be  
21 added to the Special Exposure Cohort at Y-12.  
22 I add parenthetically it's our understanding  
23 from Mr. Hinnefeld that this would become, in  
24 effect, the working definition then to, in  
25 essence, replace the earlier designations of

1 the classes at Y-12.  
2 We'll take a roll call vote, and I should also  
3 tell you that the Chair and the Designated  
4 Federal Official, under the rules of this  
5 Board, will also obtain the vote of Dr. Melius  
6 if he's not on the line now. Under our rules  
7 we are required to obtain the votes of members  
8 who are not present. Mr. Presley and Dr.  
9 Poston will be abstaining from voting, so let's  
10 proceed with the roll call. Please answer  
11 "yes" if you favor the motion or "no" if you're  
12 opposed. You may also abstain.

13 **DR. BRANCHE:** Ms. Beach?

14 **MS. BEACH:** Yes.

15 **DR. BRANCHE:** Mr. Clawson?

16 **MR. CLAWSON:** Yes.

17 **DR. BRANCHE:** Mr. Gibson?

18 **MR. GIBSON:** Yes.

19 **DR. BRANCHE:** Mr. Griffon?

20 **MR. GRIFFON:** Yes.

21 **DR. BRANCHE:** Dr. Lockey?

22 **DR. LOCKEY:** Yes.

23 **DR. BRANCHE:** Dr. Melius, are you on the line?

24 (No response)

25 Ms. Munn?

1           **MS. MUNN:** Yes.

2           **DR. BRANCHE:** Dr. Roessler?

3           **DR. ROESSLER:** Yes.

4           **DR. BRANCHE:** Mr. Schofield?

5           **MR. SCHOFIELD:** Yes.

6           **DR. BRANCHE:** Dr. Ziemer?

7           **DR. ZIEMER:** Yes. The motion carries. We will  
8 proceed to prepare the formal wording for the  
9 Board's perusal later in the meeting. Thank  
10 you very much.

11          **DR. BRANCHE:** There's a participant by phone  
12 who would need to mute their line, please.

13          **UNIDENTIFIED:** Yes, I was cut off my previous  
14 phone so I had to call back in.

15          **DR. BRANCHE:** Then we ask that you not put the  
16 phone on hold, please, when you have to leave  
17 the line.

18          **UNIDENTIFIED:** Okay.

19          **DR. BRANCHE:** Thank you so much. If you do not  
20 have a mute button, then if you could please  
21 use star-6 to mute your line, we would very  
22 much appreciate that.

23          **NEVADA TEST SITE WORK GROUP SUMMARY**

24          **DR. ZIEMER:** Okay, let's move on to the next  
25 item. We'll have Mr. Presley and Dr. Poston

1 rejoin us, and the next item on our agenda is a  
2 report from the Nevada Test Site workgroup, Mr.  
3 Presley, chair.

4 **MR. PRESLEY:** Well, we had hoped to come to  
5 this meeting and present a pretty set of slides  
6 that said that the working group accepts the  
7 site profile, as is. But we had a couple of  
8 issues come to light in a meeting we had  
9 yesterday morning, and that's not going to  
10 happen. We have asked that SC&A and NIOSH go  
11 back and look at these issues that have come to  
12 light. These are not new issues. They are  
13 issues that have been discussed in the past,  
14 but some people felt like that there was a  
15 little bit of difference there so they are  
16 going to be looked at, scrutinized and  
17 discussed. A recommendation is going to come  
18 back to the working group, and hopefully down  
19 the road we can make a recommendation on this  
20 site -- the NTS site profile.

21 Anybody have any questions?

22 **DR. ZIEMER:** Okay --

23 **MR. PRESLEY:** Thank you.

24 **DR. ZIEMER:** -- thank you, Mr. Presley. Board  
25 members, any questions? How -- how many issues





1 know if I had to or (unintelligible) --

2 **DR. ZIEMER:** No, we had no action before us --

3 **MR. GRIFFON:** Okay, right, right, right --

4 **DR. ZIEMER:** -- so you're okay, yeah.

5 **MR. GRIFFON:** Okay.

6 **DR. ZIEMER:** Okay, Larry, proceed.

7 **MR. ELLIOTT:** Thank you, Mr. Chairman, and

8 members of the Board and members of the public.

9 I certainly appreciate the opportunity to --

10 again to bring you a program update on where

11 things stand with regard to NIOSH

12 responsibilities under this compensation

13 program.

14 To date, as of June 16th, NIOSH has received

15 27,367 cases from the Department of Labor for

16 dose reconstruction. We have completed 74

17 percent of those cases and returned 20,089 to

18 the Department of Labor. We break those down

19 into cases that have been submitted with a dose

20 reconstruction report, and that represents

21 17,630. There have been 724 cases that have

22 been pulled from dose reconstruction by the

23 Department of Labor, and this happens for

24 various reasons, primarily the ineligibility of

25 the claim. There have been 1,735 cases that

1 are currently pulled from dose reconstruction  
2 for SEC class determination and eligibility.  
3 The 25 percent of cases that remain at NIOSH  
4 represent 6,898, and of those we have completed  
5 789 dose reconstruction reports and those are  
6 in the hands of the claimants awaiting return  
7 to us indicating that they have no further  
8 information to provide. So that's another --  
9 of this 6,898, that's 11 percent that we feel  
10 we have finished our work on, awaiting the  
11 concurrence of the claimant.  
12 There have been another one percent, or 380  
13 cases, that have been administratively closed  
14 in dose reconstruction. And what this is is  
15 the fact that we have not received a indication  
16 from the claimant that they have no further  
17 information to provide and will allow us to  
18 move the case back to Department of Labor for a  
19 decision. So we're awaiting the return of what  
20 we call the OCAS-1, or a form that indicates  
21 they have no further information to provide.  
22 In this pie chart you can see graphically, I  
23 hope, the distribution of these cases that have  
24 been completed, pulled for eligibility  
25 determination or pulled for SEC class

1           determination, those that have been  
2           administratively closed, as well as the active  
3           cases. And of those -- also those that are  
4           pending. When we say pending, there are a  
5           variety of reasons that we would put a case on  
6           hold at NIOSH. That primarily results from  
7           issues that regard technical approach or a  
8           particular site profile that is being held in  
9           review and we don't want to proceed on  
10          completing those dose reconstructions until we  
11          have that particular technical issue resolved,  
12          and so we would pend those cases until we see  
13          that resolution occur.

14          Of the 17,630 dose reconstructions that we've  
15          returned to Department of Labor for  
16          adjudication or for a recommended decision, 34  
17          percent, or 5,959, have had a probability of  
18          causation of greater than 50 percent. That  
19          leaves 66 percent, or 11,671 cases, that were  
20          deemed to have a probability of causation less  
21          than 50 percent and found to be non-  
22          compensable.

23          Just for a point of reference, the early --  
24          start of this program there were projections  
25          made within the government by different

1 agencies or different entities within the  
2 government that dose reconstructed cases would  
3 be less than ten percent compensable, so we  
4 have considerably moved that bar, as you see in  
5 this slide.

6 This particular graphic, this bar chart, gives  
7 you a sense of the distribution of probability  
8 of causation across those claims that we have  
9 returned to Department of Labor. It's broken  
10 out into deciles or zero to ten percent and on  
11 up until you get to the 49 percent bar, and  
12 then you see that -- those that are greater  
13 than 50 percent on the far right bar.

14 Again, of the 6,898 cases that are still at  
15 NIOSH, 2,997 are currently assigned to a health  
16 physicist. They're in some state of process of  
17 dose reconstruction, with a goal to achieve  
18 finality in that part of the process. Again, I  
19 mentioned this earlier, 789 initial draft dose  
20 reconstructions have been provided to the  
21 claimants and we're awaiting the return of the  
22 OCAS-1; 3,112 cases are not assigned to a  
23 health physicist for dose reconstruction.

24 These are probably the ones that are pended, as  
25 well as new ones that have arrived and we're

1           working to develop what background we need to  
2           continue with a dose reconstruction on those  
3           claims.

4           Of particular note, we now have 4,396 cases, 64  
5           percent of those that we have in an active  
6           status, that are older than one year. And we  
7           track that very cautiously and carefully with a  
8           lot of attention. If we look at the oldest  
9           cases that we have, the first 5,000 that we  
10          have received, we continue to monitor our  
11          progress on those, and you'll see this broken  
12          down -- I think I'll just go to the bottom line  
13          here. The most important numbers are shown to  
14          you in red. We've had 794 of these first  
15          5,000 cases come back to us, and this is for a  
16          variety of rework purposes under our Program  
17          Evaluation Reviews, or because the eligibility  
18          of the claim or the demographics of the claim  
19          changed, which requires us to rework that given  
20          claim. The bottom line here is that 37 claims  
21          are still awaiting a dose reconstruction. That  
22          earlier number, 794, has had a dose  
23          reconstruction but they've come back. These 37  
24          have never had a dose reconstruction, and we  
25          pay particular attention to those because we

1           want to get those people, those claimants, a  
2           decision as soon as we possibly can. Of these  
3           37 cases -- I'll break them down for you.  
4           There are -- they represent multiple individual  
5           sites. There are several that are reinstated  
6           Y-12 SEC cases, those that you've -- that class  
7           that you just took action on are represented in  
8           some of these. There are also cases from NUMEC  
9           that have come back to us. NUMEC is another  
10          class that you've added recently, but we're  
11          seeing those come back as not eligible. And  
12          then we've had -- or NUMEC is -- is a class  
13          that was added, but we've not completed our  
14          partial dose reconstructions for these -- these  
15          particular cases in this 37 that are  
16          represented by NUMEC. There's also some Kellex  
17          claims here; MIT, which is another class you've  
18          added but we are doing partial dose  
19          reconstructions on MIT so they're represented  
20          here; and Norton. Some are active in this 37  
21          and some are pended -- pended awaiting either a  
22          technical approach that we need in order to  
23          complete the dose reconstruction or pended  
24          because Department of Labor has some action  
25          that we're awaiting them to take.

1 In this line graph you'll see in blue the cases  
2 that have been received from the Department of  
3 Labor over the history of this program. In  
4 green you see the draft dose reconstruction  
5 reports that have been provided to claimants,  
6 and in red you'll see the final dose  
7 reconstruction reports that have been provided  
8 to Department of Labor. This is broken out in  
9 quarters, and I think we've finally got this  
10 abscissa correct, Dr. Poston, so thank you for  
11 that correction from last meeting.

12 In this bar chart we show you the cases that  
13 have been completed, by NIOSH tracking number  
14 in 1,000 increments. And we break those 1,000  
15 increments down into those that have been  
16 completed, by the color blue; those that have  
17 been pulled, in the color red; cases that are  
18 active are in -- I guess it's mustard; and SEC  
19 cases are in light green; cases that are pended  
20 are in yellow; and then the admin closed cases  
21 are in purple, or lavender.

22 I mentioned reworks earlier in this  
23 presentation, and this slide shows you in trend  
24 -- a trend analysis, if you will, the number of  
25 reworks that we have been -- we have received



1 from the Department of Labor. And particularly  
2 I'd point out for you this series of spikes  
3 later on, starting in the third quarter of  
4 2007. As you know, and I'll talk about in a  
5 moment, we have a number of Program Evaluation  
6 Reviews that were initiated and these red  
7 spikes that you see from third quarter of 2007  
8 up to second quarter of 2008 are a result of  
9 those Program Evaluation Review reworks. I  
10 point out that we have received a total of  
11 7,977 and we've returned 4,583 to the  
12 Department of Labor.

13 As you know, we -- our first step in -- once we  
14 receive a claim from the Department of Labor is  
15 we turn to the Department of Energy and seek  
16 exposure monitoring information relevant to  
17 that claim so that we can proceed with dose  
18 reconstruction. We monitor the progress of  
19 Department of Energy on their provision of this  
20 important information, and we track it. Every  
21 30 days we pulse them and find out where  
22 they're at on a given set of requests, and here  
23 you see that there are 365 requests that are  
24 outstanding, and 96 of those are outstanding  
25 greater than 60 days.

1           In the procedures working group this morning we  
2           talked a little bit about the site profiles for  
3           Atomic Weapons Employers that worked with  
4           specific types of radionuclides, and in this  
5           one, TBD-6000, Technical Basis Document 6000,  
6           there are a number of site-specific appendices  
7           that were required to be completed. These  
8           appendices speak about unique exposure  
9           scenarios that are not typical to either  
10          uranium or thorium, and in this case metals  
11          that were worked with, and so we had to come up  
12          with a technical approach that spoke to these  
13          kinds of unique exposure scenarios. Fifteen of  
14          these site-specific appendices have been  
15          completed. There are none in review at this  
16          time, and one is in -- in development, but that  
17          may be -- that may -- appendices may go away.  
18          We may find ourselves recommending an 83.14 for  
19          that particular site because we've not been  
20          able to find any information for that site, so  
21          we'll keep you posted as we proceed on that  
22          point.

23          The other Technical Basis Document for Atomic  
24          Weapons Employers that dealt with refining  
25          uranium and thorium is TBD, or Technical Basis

1 Document, 6001. And in the same situation  
2 here, we've found some exposure scenarios that  
3 needed to be addressed under an appendices, and  
4 we have completed six of those appendices and  
5 we don't envision any more that will need to be  
6 worked up.

7 Now the Program Evaluation Reports or Reviews.  
8 We have had 32 Program Evaluation Reviews that  
9 have been issued. You can find these on our  
10 web site. These different changes that have  
11 been made to our dose reconstruction approaches  
12 have resulted from our -- our own efforts to  
13 identify a better way to do things, as well as  
14 efforts of the -- of the Advisory Board and its  
15 contractor in finding issues and resolving  
16 issues with us to lead to a better dose  
17 reconstruction approach. So you see here  
18 14,217 claims that have been affected across  
19 these 32 Program Evaluation Reviews. I would  
20 note for you, however, that that's not -- many  
21 of these claims may be duplicated. In other  
22 words, a claim may find itself affected by more  
23 than one of these PERs, so you can't just rely  
24 on the 14,217 and say my goodness, that's a  
25 lot. It is a lot, but it's not that total

1           number. They're counted twice, maybe three  
2           times, in this number.

3           So what has happened here, we -- once we rework  
4           a claim against these Program Evaluation  
5           Reviews, we see whether or not -- and we do  
6           this because there's a potential chance that  
7           the dose might increase for a given claim, and  
8           so we look at a lot of these claims and we're -  
9           - we're thankful when we see one that does  
10          increase in dose, and we're very thankful when  
11          we see one that crosses the compensation bar  
12          and goes to a 50 percent or greater probability  
13          of causation. Here you see 249 have switched  
14          from non-compensable to compensable.

15          Now for background, you heard me in -- in the  
16          last several meetings I have reported to you  
17          that there were 154 that had switched, so now  
18          we see an increase here of 92 claims that have  
19          been found to be compensable under our Program  
20          Evaluation Review. And of those 92, 77 are due  
21          to super S; five are due to our Paducah Program  
22          Evaluation Review; one is for our LANL Program  
23          Evaluation Review; eight are on Blockson and  
24          one is on Rocky Flats. Again, I would caution  
25          you about the super S because there may be more

1 Rocky Flats in that than the one I'm talking  
2 about for Rocky Flats. So the numbers are what  
3 they are, but they affect claims differently,  
4 so just a caution.

5 That's the -- that's the good news. The bad  
6 news is we've done 7,943 in an effort to try to  
7 determine whether or not they would be so  
8 affected, and there was no change in the  
9 compensability of those claims. We have still  
10 6,025 that we are working on as we speak. And  
11 again, that number may represent, and probably  
12 does represent, a lot fewer cases, but many of  
13 those cases may be affected by more than one  
14 Program Evaluation Review. Hard to get my mind  
15 wrapped around it; I'm sure it's difficult to -  
16 - for me to express so that you all understand.  
17 You're going to hear from LaVon Rutherford  
18 later in your agenda on a Special Exposure  
19 Cohort class update, but this is just a  
20 summary. He will get into more -- greater  
21 detail than I'm allowed to here. But to date,  
22 as of June 16th, 28 SEC classes have been added  
23 since May of 2005. Seventeen of those, or 61  
24 percent, have been -- done so through the 83.13  
25 process or where a petitioner comes forward and

1 petitions for that class. Eleven, or 39  
2 percent, have been accomplished through the  
3 83.14 process, and that's an instance where we  
4 at NIOSH have determined that we cannot  
5 reconstruct the dose for a given claim for a  
6 site and we establish a class around that  
7 claim. This represents classes from 22 sites.  
8 It represents 1,735 potential claims. Just so  
9 you know, there's -- this also represents an  
10 increase of three classes, three sites and 170  
11 claims from your last meeting that you held.  
12 And I think that's it, and with that, I'll take  
13 questions.

14 **DR. ZIEMER:** Thank you very much, Larry. Let's  
15 open the floor, Board members, for questions.  
16 John Poston.

17 **DR. POSTON:** Larry, could you say just a little  
18 bit more about the cases that were reworked,  
19 those high peaks that you pointed out. Is that  
20 because of the health physicists or because of  
21 changes in procedures or what?

22 **MR. ELLIOTT:** Program Evaluation Reviews are  
23 accommodated in our dose reconstruction  
24 regulation, and we are required -- when we make  
25 a technical change in our dose reconstruction

1 approach that might lead to an increase in dose  
2 estimates, we're required to go back and look  
3 at all of those non-compensable claims that  
4 might be so affected. And the -- the red bars  
5 that you saw on the right-hand side of that  
6 chart are really representative of super S, the  
7 LANL, the Paducah, the Bethlehem Steel, the  
8 lymphoma -- these are just to name a few. I  
9 can give you the whole list if you want me to  
10 run down the list, but there are -- I think I  
11 said 32 of those.

12 **DR. POSTON:** I just want to make sure you're  
13 getting quality work from the HPs, that's a --

14 **MR. ELLIOTT:** Yes, sir, I think we're -- we're  
15 squeezing every bit of sweat they have to get  
16 these things done, so...

17 **DR. POSTON:** Okay.

18 **DR. ZIEMER:** Other comments or questions?

19 (No response)

20 Larry, we always appreciate your updates, and  
21 it's -- it's good to see them tracking along  
22 and the progress that has been achieved, so we  
23 again thank you very much.

24 **SPECIAL SCIENCE JOURNAL PUBLICATION**

25 I'm going to take the Chair's prerogative and

1           jump ahead here a bit in the agenda, and I'm  
2           going to pull an item from tomorrow morning's  
3           agenda -- some of the items we're going to try  
4           to keep pretty fixed where they involve SEC  
5           petitions and people who may be on line, so I'm  
6           not going to move those. But we have scheduled  
7           tomorrow morning a report on a special edition  
8           of the *Health Physics Journal* that has come out  
9           within the last week or so, and Jim Neton and  
10          others at NIOSH had a big hand in the  
11          development of the technical papers in this and  
12          he's going to give us an update. Board  
13          members, I think you may have copies of this  
14          edition of the *Health Physics Journal* at your  
15          places -- courtesy of NIOSH, I believe.

16          **DR. NETON:** Yes. Thank you, Dr. Ziemer.  
17          You'll have to bear with me a little bit. I  
18          really did think I was giving this presentation  
19          tomorrow so, being the procrastinator that I  
20          am, I am -- I guess I'm somewhat prepared but I  
21          may -- I may stumble a little bit as I go  
22          along, so again I ask your indulgence.

23          I'm here to talk about something that we've  
24          been working on for -- oh, probably the last  
25          year and a half or so, and that is the special



1           edition -- special issue of the *Health Physics*  
2           *Journal* that is entirely devoted to the NIOSH  
3           radiation dose reconstruction program.

4           You know, over the last five or six years we've  
5           developed a lot of scientific documents to  
6           establish the manner and the methods that we  
7           produce these dose reconstructions. And we  
8           felt that it was time to put it out into the  
9           open literature. NIOSH has formed, a while  
10          ago, a scientific steering committee whose  
11          mission is to review the state of our science  
12          and to figure out what direction we need to go.  
13          And it was the consensus of the committee at  
14          our first meeting that this was probably the  
15          best thing we could do right now, to -- for our  
16          program, to get some of our information out  
17          into the open literature.

18          So an overview of the issue -- it's -- it just  
19          came out in July, for the July issue. Those of  
20          you who are members of the Society would have  
21          received their *Journal* a week or so ago. And  
22          as Dr. Ziemer pointed out, we provided a copy  
23          to each of the Board members for their use and  
24          review. I know some of the Board members who  
25          are members of the Health Physics Society have

1 already received a copy, so just consider that  
2 a second copy that you can -- you can put on  
3 your nightstand.

4 The issue has 15 original articles that cover  
5 the science behind the program, and we spent a  
6 lot of time looking at what we really wanted to  
7 put out there. If you remember, we had, you  
8 know, implementation guides for the internal  
9 dosimetry, the external dosimetry, those type  
10 of documents. And so we tried to -- to capture  
11 in this issue those concepts that we thought  
12 were key to our program, the efficiency  
13 process, those type of things.

14 It highlights the unique nature of the dose  
15 reconstruction for compensation programs, so  
16 that's one reason we wanted to get it out  
17 there. As you -- as you probably know, dose  
18 reconstruction under this program is somewhat  
19 different than what you would see for a  
20 radiation protection program and also for a --  
21 even a radiological epidemiological study.

22 There are a lot of unique aspects of this  
23 program that are driven by the way the law is  
24 written.

25 I would be remiss if I didn't point out that

1           this was a joint effort with the ORAU team. I  
2           commend all the authors who devoted much of  
3           their time -- their own time -- to putting  
4           these articles together. In particular I'd  
5           like to highlight the contribution of Dr. Dade  
6           Moeller, who really helped in shepherding this  
7           -- this through the process of getting an issue  
8           of this magnitude put together. Those of you  
9           who've published articles know it's an arduous  
10          process to get them published, a lot of back-  
11          and-forth getting things through the editorial  
12          process, and -- and this was sort of magnified  
13          by 15 times. We were trying to get these all  
14          out at the same time and get people's time  
15          commitments organized and on target, and we  
16          came pretty close to our target date of getting  
17          this out, so I'm pretty proud of what this team  
18          has accomplished.

19          Just for your reference -- now that you have  
20          it, this is sort of redundant -- but this is a  
21          copy of the cover that came out. I was worried  
22          it might not be out in time for the meeting so  
23          I just gave you a snapshot of the cover.  
24          You'll see that we chose to put the flow  
25          diagram of the efficiency process on there

1           because we think this is part and parcel of our  
2           program, how it's -- how it's operated and how  
3           it's actually gained us the efficiencies to be  
4           able to process the number of cases that --  
5           that Larry Elliott just mentioned. We couldn't  
6           have done the 20-something -- or almost 20,000  
7           dose reconstructions without having this  
8           process in place. And it's somewhat unique to  
9           the NIOSH program where we have a binary  
10          decision, 50 percent or greater or less than 50  
11          percent, unlike some other programs on a global  
12          basis that have a sort of a sliding scale that  
13          require full-blown dose reconstructions for  
14          each -- each case.

15          The issue is broken into four major sections,  
16          as you'll see if you get to look at a copy of  
17          it. There's a program background; as you can  
18          imagine, it provides the overview of the  
19          program, the management issues associated with  
20          such a large undertaking. There's an issue of  
21          -- it deals with the Advisory Board, authored  
22          by Dr. Ziemer. And there's a paper on the  
23          scientific issues that we had to deal with in  
24          the dose reconstruction program, the large  
25          number of issues related to the demographics

1           and the biokinetic models and the  
2           Hiroshima/Nagasaki survivors in relationship to  
3           occupational exposures -- those sort of things.  
4           Data collection supporting studies are in  
5           there. We felt it was important to talk about  
6           the collection and validation of the data that  
7           we've done, and also what the role of site  
8           profiles was, how they were envisioned and what  
9           they ended up being and how we've actually  
10          developed some of those.  
11          And then in the third section you see dose  
12          reconstruction. That's sort of the nuts and  
13          bolts of the issues, which you can imagine --  
14          we talk about the internal/external dosimetry  
15          reconstruction, environmental, medical. And  
16          there's a paper in there that deals with  
17          bounding analyses in the efficiency process,  
18          how we use that to our advantage, and I think  
19          that particular example is related to the  
20          thorium work at Rocky Flats.  
21          And finally there's a section devoted to the  
22          probability of causation model IREP that, to my  
23          knowledge or my thinking, is probably the best  
24          -- the best peer-reviewed publication on IREP  
25          to date that's out there. It goes into -- it's

1           fairly extensive. It takes up a good chunk of  
2           the *Journal*, but it's the only place that I'm  
3           aware of that presents all of the nuances and  
4           ins and outs of what IREP is about, not only  
5           the National Institute of Health version of  
6           IREP but the NIOSH version of IREP and how  
7           there are differences.

8           I've kind of gone over this, but this just  
9           highlights some of the specific issues that we  
10          felt were important to include in this issue --  
11          the efficiency process, data hierarchy -- all  
12          of these things are included -- either  
13          specifically addressed in our regulations on  
14          how we do dose reconstructions, or covered in  
15          some way, shape or form in the Implementation  
16          Guides. So these are all in some way discussed  
17          in some detail in the -- in the special  
18          edition.

19          One thing I did fail to mention -- well, let's  
20          see, maybe -- oh, no, I didn't, it's coming up.  
21          Why did we want to publish this; what were the  
22          perceived benefits of getting this out into the  
23          open literature? And one thing we felt was  
24          extremely important was that these articles  
25          would get an independent review of the science

1           behind the dose reconstructions. That is, we  
2           didn't ask any special favors of the *Health*  
3           *Physics Journal*. We submitted these and they  
4           were subjected to the standard blind review  
5           process where the *Journal* would select blind  
6           reviewers, they would comment, and then we'd  
7           have to negotiate those comments back and forth  
8           until there was general agreement among the  
9           parties. So an independent review of the  
10          science gave us a good feeling that these were  
11          not just NIOSH home-brewed science -- science  
12          concepts and methods, but they were -- also had  
13          some acceptance, at least in the general  
14          scientific population.

15          It also helped us to provide citable references  
16          that could be used by others for our  
17          approaches. It's not uncommon that I get phone  
18          calls and e-mails from colleagues who say "I  
19          really like what you've done with the medical  
20          X-ray stuff, and yeah, you can find it on the  
21          web, but how are you going to find it down the  
22          line; how can I cite this in my publication?"  
23          Well, now it's out there. You know, the  
24          medical X-ray -- there's a paper on medical X-  
25          rays that's out there. I get a lot of phone

1 calls on IREP, so that's citable now. And even  
2 some of the other issues about data capture and  
3 development of site profiles, that sort of  
4 thing. So it's citable references that can be  
5 used by the general public.

6 This is somewhat redundant to the previous  
7 bullet I just talked about, but we believe that  
8 it adds to the global scientific body of  
9 information on dose reconstruction. We've done  
10 a lot of work here. We've published thousands  
11 of pages of technical documents. It's out  
12 there now for -- for historical purposes and  
13 there are a number of other programs worldwide  
14 -- there's global programs on dose  
15 reconstructions that are being formed every day  
16 -- not every day; routinely. I mean I was just  
17 at a conference out in Colorado where there's a  
18 number of countries that are interested in  
19 looking at what we've done and adapting it for  
20 their specific uses. So we feel it's good to  
21 have it out there for their use in the open  
22 literature.

23 And lastly, I think it's important that it  
24 assists with communication to the stakeholders  
25 on the scientific issues. It would be directly



1 relevant to those stakeholders who are  
2 scientifically oriented, but even for those who  
3 aren't, I think -- we hope that it would convey  
4 a general sense that these things have been  
5 peer reviewed and it's not just, again, NIOSH  
6 home-brewed science, scientific concepts, but  
7 it is -- has been at least accepted by some  
8 peer reviewers that are colleagues of ours in  
9 the scientific arena.

10 We didn't want to hide this publication when it  
11 came out. We thought it would be important to  
12 let the world know a little bit about it, so  
13 prior to the release we had developed a  
14 communication strategy. We have purchased 500  
15 copies for distribution, of course 12 of which  
16 have been distributed to the Advisory Board.  
17 But we intended to provide them to Board  
18 members, we have a lot of interest from various  
19 Congressional offices who might have some  
20 interest in looking at what we've done,  
21 stakeholder requests, those sort of things. So  
22 we have copies available for distribution for  
23 those who -- who would like some.  
24 We've also developed talking points for our  
25 staff, particularly our Public Health Advisors

1           who may get phone calls. Word does get around  
2           in this compensation program and we prepared  
3           our -- we prepared for our Public Health  
4           Advisors to be able to discuss -- you know,  
5           what does this really mean, what is -- why is  
6           NIOSH putting this out, what does it mean to my  
7           case specifically, that sort of thing.  
8           We're also in the process of issuing a press  
9           release to notify folks that it's there so they  
10          can find it. And we are going to put it on our  
11          web site -- not -- we can't put the  
12          publication, for copyright reasons, on the web  
13          site. But we're going to notice that it has  
14          been published. It's on our web site with a  
15          summary of the contents and where one might be  
16          able to get additional information, reprints or  
17          entire copies of *Journal*.  
18          So that's it in a nutshell. I'd be happy to  
19          answer any questions, if there are any. Thank  
20          you.

21          **DR. ZIEMER:** Okay, thank you very much, Jim.  
22          We appreciate that summary. Larry, you have a  
23          comment here?

24          **MR. ELLIOTT:** I just want to emphasize for the  
25          audience and for anybody listening -- anybody

1           that reads this transcript -- Jim mentioned  
2           this but I want to highlight it. The  
3           contributing authors to this journal worked on  
4           their articles on their own time. They did not  
5           take time away from dose reconstruction efforts  
6           or site profile development, Advisory Board  
7           support, and I commend them for that. But that  
8           was one of the ground rules that we set at the  
9           very start of this, that we will not sacrifice  
10          our work for the claimants just to get this  
11          thing out.

12         **DR. ZIEMER:** Thank you, good point. John  
13          Poston?

14         **DR. POSTON:** Well, I'd like to stick my oar in.  
15          I think this is a great thing and I commend  
16          NIOSH and ORAU for doing this 'cause, as Jim  
17          said, it's nice to have this in the citable  
18          literature so that scientists can use it all  
19          around the world. I think it's a great thing.

20         **DR. ZIEMER:** I think one good example of how  
21          some of the work is beginning to get noticed is  
22          -- and maybe, Larry, you can comment on this --  
23          but my understanding is now that ICRP is  
24          looking at formally modeling the class -- or  
25          the super S plutonium modeling.

1           **DR. BRANCHE:** What is ICRP?

2           **DR. ZIEMER:** International Commission on  
3 Radiological Protection.

4           **DR. BRANCHE:** Thank you.

5           **MR. ELLIOTT:** Yes, they are, and they are also  
6 engaged in several committee work on this --  
7 relative to aspects of this program. Jim, as  
8 associate director for science in OCAS, serves  
9 on -- to advise on one of those committees and  
10 your work is on -- remind me, Jim, it's on --

11           **DR. NETON:** I'm on an NCRP committee.

12           **MR. ELLIOTT:** NCRP, I'm sorry, that's NCRP, but  
13 --

14           **DR. NETON:** I'd like to be on the ICRP, but  
15 NCRP is fine.

16           **MR. ELLIOTT:** Yeah, we also -- we're also  
17 working with --

18           **DR. ZIEMER:** NCRP, for the record --

19           **MR. ELLIOTT:** -- that's what I meant to --

20           **DR. ZIEMER:** -- is National Council on  
21 Radiation Protection and Measurements.

22           **MR. ELLIOTT:** Yeah, we're working with the NCRP  
23 on several committee efforts. Jim's on one,  
24 but we're also just about ready to commission  
25 the NCRP to establish a committee that will

1 evaluate the IREP in great detail.

2 **DR. ZIEMER:** Any additional comments or  
3 questions for Jim?

4 (No responses)

5 Thank you.

6 (Pause)

7 **BOARD INTERACTIONS WITH CONGRESS**

8 Okay. Again I -- I'm pulling another item from  
9 tomorrow's agenda, and that has to do with  
10 Board interactions with Congress. And Jason  
11 Broehm is here and he's -- he's our subject  
12 expert on interactions with Congress. Jason,  
13 welcome. Thank you for being willing to jump  
14 ahead.

15 **DR. BRANCHE:** Actually if I can embellish, Mr.  
16 Broehm is -- works in the CDC Washington  
17 office, which he'll explain in a moment, and  
18 he's an attorney working with our Congressional  
19 liaisons and we work primarily with him in that  
20 regard.

21 **MR. BROEHM:** I'm -- I'm not an IT expert so I  
22 might need some help here getting my  
23 presentation loaded onto the laptop here.

24 (Pause)

25 **DR. BRANCHE:** No, you don't -- there is no



1 office representative to -- to NIOSH and to the  
2 Board, and then discuss the policies governing  
3 the Advisory Board and SC&A interactions with  
4 Congress.

5 So I'd like to start off with a quick civics  
6 lesson -- not to insult anyone's intelligence  
7 here, but just to sort of provide the framework  
8 for where I'm going. As we all know, and I  
9 think learned in elementary school, we have  
10 three branches of government: The Executive  
11 Branch, for which we work; the Legislative  
12 Branch, which is obviously Congress; and then  
13 the Judicial Branch, the Supreme Court and the  
14 court system, which I'm not going to talk about  
15 today but it certainly is an important part of  
16 our government. These are three co-equal  
17 branches that were set up in our Constitution,  
18 and each one was supposed to provide some  
19 checks and balances on the others.

20 So in our case, working in the Legisla-- or I'm  
21 sorry, in the Executive Branch, we're the  
22 federal agencies that are implementing the  
23 programs that the government runs and  
24 administering programs like EEOICPA. And then  
25 Congress and the Legislative Branch is

1 providing a number of important roles that  
2 interact with the -- with the Executive Branch  
3 agencies like HHS.

4 So quickly, the roles of Congress in this  
5 program are -- first of all, Congress passed  
6 the legislation that authorized this program to  
7 exist. That happened back in 2000. Several  
8 years later it was amended to tweak the law a  
9 little bit, add some new requirements.

10 The other role that Congress has is annually  
11 they appropriate the funds that pay for this  
12 Advisory Board, for NIOSH to administer the  
13 program, for the Department of Labor to do  
14 their work, and obviously for the contractors  
15 who do their work in this program as well. It  
16 comes through that stream, so Congress does  
17 have that very fundamental and important role  
18 in this program.

19 And very closely related to that, they conduct  
20 oversight of this program, and other programs  
21 across the government. The goal in that is to  
22 ensure efficiency, make sure things are running  
23 the way that they were established to run. And  
24 where necessary, to identify the problems that  
25 may exist and correct them based on sort of



1           spotlighting or highlighting the issues and --  
2           and in many cases putting the people who  
3           execute the program on the spot and making them  
4           motivated to -- to improve the program.  
5           So the -- the fourth function the Congress  
6           serves then I think a very, very important  
7           role, that we certainly can't underestimate, is  
8           the assistance they provide in helping our  
9           constituents who are claimants in this program  
10          or are otherwise interested in navigating this  
11          program, and advocating on their behalf. I  
12          know we have a number of people in that  
13          situation here today. I know some of -- some  
14          of -- certainly interacted with their members  
15          of Congress or their Senators or U.S.  
16          Representatives, and it's an important role.  
17          These claimants are voters. They elect the  
18          Senators and Representatives to -- to do this  
19          for them, so -- and these elected officials  
20          serve at their pleasure. If they don't do  
21          their job, then they may not be re-elected. So  
22          this is of the utmost importance in -- in their  
23          -- their role in helping the people who -- who  
24          they serve.  
25          You know, I know that you as Advisory Board

1 members hear from unhappy claimants every  
2 several months when you have public comment  
3 session at one of your meetings. But just to  
4 help you understand where Congressional staff  
5 are coming from, they're probably hearing from  
6 these people on a daily basis, maybe weekly,  
7 but it's their job to intervene and do what  
8 they can to try to help the process along.  
9 So let me run through what Congress needs from  
10 -- from NIOSH, from the Advisory Board, really  
11 from any program that's run across this  
12 government. First and foremost is for the  
13 program to be well-run, make -- like I said  
14 earlier, to make thing-- make sure that things  
15 are working as they were designed to work; and  
16 where there are problems, to try to fix those.  
17 Next, and very important, is that Congress gets  
18 timely information and that that information is  
19 responsive to -- to what they've requested, as  
20 much as possible. Congress really operates on  
21 a different time horizon than -- than most  
22 bureaucracies do. Congress really works at a  
23 fast pace. Often if you don't get them the  
24 information within a few days or, you know, a  
25 week, they get impatient. They -- they need

1           the information more quickly. So bureaucracies  
2           don't often respond at this -- at this fast  
3           pace, but certainly in my office our job is to  
4           try to help that to happen as -- as quickly as  
5           possible so that they can get the information  
6           they need and proceed with their jobs.  
7           So, you know, basically in preparation for  
8           these meetings I notify Congressional staff of  
9           the Board meetings, workgroup meetings, let  
10          them know, you know, when things are going to  
11          come up approximately. Obviously things move  
12          around, but try to keep them as informed as  
13          possible, share appropriate documents that come  
14          from the Advisory Board and SC&A, their  
15          contractor.  
16          And then, you know, to the extent that it's  
17          possible, one of the things that I'd like you  
18          to consider -- as workgroup chairs, in  
19          particular -- is when meetings are coming up it  
20          is helpful for them to have agendas. I know  
21          that that doesn't always happen with every  
22          workgroup meeting, but to the extent that you  
23          can have an agenda that's -- that's up on the  
24          web site in advance or even sent around a day  
25          or so in advance, I think that's helpful just

1           so that staff who are very -- you know, keep  
2           very busy schedules can log onto the call, call  
3           in when -- when they have the time and sort of  
4           can plan their schedule accordingly.  
5           And then the documents that are related to  
6           their -- to the sites in question, obviously  
7           there are issues here with having to -- to do a  
8           lot of work, sort of a lot of this I know  
9           happens sort of at the last minute, then it has  
10          to go through a Privacy Act review which, you  
11          know, we all understand and have to work with.  
12          But to the extent that you can sort of plan  
13          backward, whether it's, you know, the Board,  
14          SC&A, NIOSH, their contractors, and build in  
15          the time for the review before the meeting,  
16          it's helpful to have those things in -- in  
17          their hands. In particular I think for a lot  
18          of these workgroup meetings the matrices, these  
19          documents sort of lay out the issues that will  
20          be discussed in the call. I for one, you know,  
21          have been listening to these calls for several  
22          years now and -- and still a lot of this just  
23          flies right over my head. But if you can  
24          imagine a Congressional staff person, many of  
25          whom are -- are young and don't have a

1           technical background, it's helpful to sort of  
2           walk through the issues and at least have  
3           something on paper to guide where the Board is  
4           going. So I would just say that, as much as  
5           possible, please take that into consideration  
6           and help them go through this process with you.  
7           So my office, the CDC Washington office, as I  
8           mentioned earlier, provides Congressional  
9           relations support for the whole CDC. What we  
10          really do is sort of a -- sort of a liaison  
11          role across CDC with those in the Department of  
12          Health and Human Services who we need to  
13          coordinate with, and then with Congress. Our  
14          job really is to inform Congress of CDC  
15          programs and activities, answer questions as  
16          they come up. We coordinate any requests for  
17          information from Congress. That could take the  
18          form of a very simple question that comes up  
19          and -- or helping provide information or a  
20          status report on a claim for one of their  
21          constituents, or it could involve coordinating  
22          a briefing to provide information at the staff  
23          level, or a -- preparing a witness to testify  
24          before Congress at a formal hearing.  
25          So I, along with Christine Branche as the

1 Designated Federal Official, we're here to --  
2 to serve as a resource to help answer questions  
3 as they come up and to advise you on how to  
4 interact successfully with Congress. And my  
5 contact information will be at the end, and  
6 certainly you know very well Christine's  
7 contact information, but any time you have  
8 questions I would encourage you to reach out to  
9 her and to me and -- and we can help.

10 So as a preface to this next section which is  
11 talking about the policies and guidelines that  
12 we operate under, I just wanted to say that  
13 Congress serves a very important role in this  
14 program and should have access to the Advisory  
15 Board members and to the Board's technical  
16 support contractor, Sanford Cohen & Associates.  
17 So there are sort of two paths that we can go  
18 down, in particular for Board members, for how  
19 those interactions occur. I would just sort of  
20 say, as a starting point, the presumption is  
21 that federal employees who speak with Congress  
22 do so in their official capacity. You know, if  
23 -- if an agency official is asked to provide a  
24 briefing on something, we have to go through  
25 certain channels of just informing the right

1 people, letting them know -- in some cases, you  
2 know, tweaks are made, additional people are  
3 asked to -- to sit in. But the Advisory Board  
4 really is sort of a special case and you are  
5 special government employees so you are part-  
6 time or not -- not full-time employees in the  
7 sense of working 40 hours a week but I know you  
8 do put in long hours. But the role of the  
9 Board to provide sort of a -- an outside  
10 independent voice and -- and review to -- to  
11 NIOSH's science is something that, you know,  
12 certainly in some cases it may -- may serve  
13 Congress better to -- to have those discussions  
14 without HHS administration officials present,  
15 except for the Board members. And so that --  
16 that can happen, but basically in order for an  
17 Advisory Board member to speak with Congress in  
18 -- in your official capacity as a member of the  
19 Advisory Board and a special government  
20 employee, you need to follow certain HHS  
21 procedures for agency communications with  
22 Congress.

23 Having said that, though, of course Advisory  
24 Board members may speak with Congress as a  
25 private citizen, providing a different --

1 perhaps different inputs and -- and voice, but  
2 as I said earlier, the Designated Federal  
3 Official and I and my office stand ready to  
4 advise and assist you as Congressional requests  
5 are received and -- and each one is treated  
6 somewhat differently.

7 So first for appearing as an Advisory Board  
8 member, you -- you may speak with Congress in  
9 your official capacity following the following  
10 rules. When an Advisory Board member receives  
11 a request to speak with Congress, he or she  
12 should alert the Designated Federal Official,  
13 who will familiarize you with the process and  
14 coordinate with me in my office and make the  
15 necessary arrangements to -- to move forward  
16 with -- with whatever's needed. Any written  
17 document, whether it's, you know, a single page  
18 briefing document that you plan to hand out, or  
19 something that's longer and -- and more  
20 involved, like hearing testimony, an advisory  
21 member needs to share that in advance, and it  
22 has to go through a certain clearance process  
23 within CDC -- well, NIOSH, CDC and HHS. In  
24 particular with -- with a hearing, these are  
25 more involved and more formalized. Those types



1 of statements, if you're appearing as an  
2 Advisory Board member in that capacity,  
3 typically what happens is those are cleared at  
4 several levels, including -- starting at the  
5 NIOSH and -- and/or CDC level. Then it has to  
6 go through an HHS clearance process which goes  
7 across the various policy offices of HHS.  
8 People have a chance to review and comment and  
9 suggest changes. And then the Office of  
10 Management and Budget serves a coordinating  
11 role across the whole of the federal  
12 government, so testimony in those cases would  
13 be circulated to our counterparts in the  
14 Department of Labor. They would have a chance  
15 to comment and -- and provide input on that  
16 testimony as well.

17 Now not every document is that sort of reaching  
18 in scope in terms of the review. Most -- in  
19 most cases a simple one- or two-page document  
20 will go through a fairly abbreviated clearance,  
21 but it is important to have that reviewed in  
22 advance.

23 And then if you appear in this capacity, an HHS  
24 representative -- myself, perhaps others --  
25 would -- would appear with you and -- and

1            accompany you and get you to the right place at  
2            the right time. Then any -- any follow-up  
3            information that's requested during the meeting  
4            would have to go through the same -- the same  
5            clearance and review process as that that was  
6            prepared in advance.

7            So then the other path is appearing as a  
8            private citizen. And when speaking with  
9            Congress as a private citizen an Advisory Board  
10           member really needs to make clear, whether it's  
11           in written or oral communications, that he or  
12           she -- that you are speaking on your own behalf  
13           and not in your capacity as an Advisory Board  
14           member, just need to -- need to make that  
15           clear.

16           And then Advisory Board members need to be  
17           aware that in this capacity as a private  
18           citizen you shouldn't be offering information  
19           or opinions about the Advisory Board or other  
20           government actions, particularly those that are  
21           not public information. Advisory Board members  
22           of course I know are constantly reminded by Dr.  
23           Branche and others that no information should  
24           be released, no documents should be released  
25           before consulting with her to be sure that it's

1           gone through the Privacy Act review that's --  
2           that's necessary to protect individuals'  
3           information that shouldn't be shared publicly.  
4           And then finally, Advisory Board members should  
5           not speak to an opinion or position of the  
6           Board unless the Advisory Board has taken a  
7           formal and publicly-approved position in  
8           accordance with your procedures.  
9           So sort of related to this then is meetings  
10          that Congress has typically or periodically  
11          requested of your contractor, Sanford Cohen &  
12          Associates. As we know, they do much of the  
13          technical work that supports -- supports your  
14          function, and this work and these -- these work  
15          products are of keen interest to members of  
16          Congress and their staff. And so under the  
17          Board's procedures that have been discussed at  
18          previous meetings, Congressional offices may  
19          speak with SC&A, with or without members of the  
20          Advisory Board present. We basically leave  
21          that up to the Congressional offices. If they  
22          wish to have the meeting with -- with SC&A  
23          representatives and not invite a Board member,  
24          that is -- is their prerogative. We in the  
25          Executive Branch sometimes do have

1           disagreements with Congress, but we generally  
2           try to provide information that they need to --  
3           to serve their role in this process. And so  
4           we've -- we've generally provided that access  
5           when it's been requested.

6           So as with an Advisory Board member appearing  
7           in -- in their private citizen capacity, SC&A  
8           representatives need to speak in that same role  
9           and not provide opinions about what the Board  
10          is doing or might do or should do. And then  
11          the SC&A representatives need to make clear to  
12          all parties that they are appearing as  
13          employees of a private company, that they are  
14          providing their own private opinion and don't  
15          represent the positions of the Advisory Board  
16          or the -- or of HHS.

17          And then of course the same proviso, any  
18          documents need to be pre-cleared and make sure  
19          that -- that they've checked with -- with Dr.  
20          Branche to make sure that the Privacy Act  
21          review has been done and that those documents  
22          are cleared for release before they're shared.  
23          And then I would just add -- you know,  
24          typically government contractors don't do  
25          briefings for Congress. They're sort of

1 providing a support role to the government, and  
2 the government officials would do the briefing,  
3 occasionally would have a contractor with them  
4 to provide a supporting role. But again, as  
5 sort of the special case that -- that the  
6 Advisory Board has here in terms of providing a  
7 -- an independent outside review on NIOSH's  
8 science, the -- that's -- the role of SC&A in  
9 this process also is to provide that outside  
10 scientific voice and we don't want to get in  
11 the way in terms of even just providing the  
12 appearance of somehow influencing what they --  
13 what they say, just by virtue of being in the  
14 room. And so it has been the policy to treat  
15 SC&A as a special case and unique and different  
16 from -- from most other government contractors.  
17 So that completes what I -- what I had to say  
18 to you. I'd be happy to take any questions you  
19 may have and --

20 **DR. BRANCHE:** Before you do, I --

21 **MR. BROEHM:** Yes?

22 **DR. BRANCHE:** -- have a couple of -- a proviso  
23 and some additional information for you, and  
24 then please ask -- this is a good opportunity  
25 for you to ask as many questions as you wish of

1 Jason and me and -- as our -- as Jason has  
2 explained this information.  
3 As it concerns the written documents and so  
4 forth if you were to appear before Congress --  
5 if you were to be asked to appear before  
6 Congress in your capacity as an Advisory Board  
7 member, understand you're representing the  
8 Executive Branch then speaking to the  
9 Legislative Branch of government. You can't  
10 ask for forgiveness. There are -- this is your  
11 -- this is your chance to know that this is the  
12 way the procedure is. So to ask for  
13 forgiveness later because you did something in  
14 a completely -- it would be considered  
15 completely inappropriate. You must have all  
16 part of your testimony -- proposed testimony  
17 cleared by all the levels that Jason just  
18 explained.  
19 And Jason, if you can put your slide back up  
20 about appearing as a private citizen -- and I  
21 will ask Jason to send this PowerPoint slide to  
22 me so that we can get this to you. Actually --  
23 **MR. BROEHM:** And I would just say that Zaida  
24 was -- does have the slides on paper and was  
25 preparing to copy them for tomorrow, but --

1           **DR. BRANCHE:** Okay.

2           **MR. BROEHM:** -- we got -- got ahead of her.

3           **DR. BRANCHE:** But I think it's fine for them to  
4 have them electronically.

5           **MR. BROEHM:** Yes, we'll get it to --

6           **DR. BRANCHE:** I think it'll be more helpful to  
7 you. There's some provisos here that I think  
8 are important and I would substitute the word  
9 "Congress" with "the press." When you -- many  
10 of you interact with the press as it concerns  
11 spe-- specifically as it concerns certain sites  
12 for which you serve as a workgroup chair. You  
13 would be speaking as a private citizen to the  
14 press. You'd ha-- I -- I would ask that you  
15 make it very clear that you are speaking as a  
16 private citizen. You would not be speaking on  
17 behalf of the Board. Anything that you would  
18 say to the press on behalf of the Board would  
19 then have to follow the information that's in  
20 Jason's fourth bullet, information that has  
21 been formally and publicly approved by the  
22 entire Board.

23           I have personally been misquoted by the press.  
24           It is possible to be misquoted by the press,  
25           but I'm not saying that they purposefully do

1 anything wrong, but I think it's always  
2 important that you do your part to make certain  
3 that they understand that you're speaking as a  
4 private citizen and not as a Board member.  
5 And with those provisos, I turn it back to  
6 Jason to be able to put your last slide back  
7 up, and I know that you have several questions.

8 **DR. ZIEMER:** Well, the last slide asks for  
9 questions, so if Board members have questions  
10 for Mr. Broehm, this is the time. I think John  
11 Poston was first, and then we'll go to Mark.

12 **DR. POSTON:** I don't have a question for Jason.  
13 I do have a comment. We've talked about this  
14 before. It -- you know, SCA is a contractor  
15 who works under the direction of the Board --  
16 this Advisory Board. We establish the tasks  
17 that they're going to work on and so forth.  
18 And I just want to say that I find the  
19 differences between the rules for the Board and  
20 the rules for SCA not only ludicrous but  
21 hilarious.

22 **DR. ZIEMER:** Mark?

23 **MR. GRIFFON:** I was -- I was waiting for maybe  
24 a response about that, I don't know if there is  
25 any response.



1           **DR. ZIEMER:** Jason --

2           **MR. GRIFFON:** I know it wasn't really a  
3 question, but --

4           **DR. ZIEMER:** -- were you planning to respond to  
5 that?

6           **MR. BROEHM:** Well, I know that the Board has  
7 debated this in the past, and I believe has a  
8 written policy that's -- that's been passed,  
9 and so I guess that's what I would say to that.

10          **DR. ZIEMER:** Okay.

11          **MR. GRIFFON:** I guess that -- that was my  
12 question, and maybe we do, but you -- you  
13 mentioned that this has been procedure, and we  
14 do have an internal procedure on this that  
15 covers those bullets? 'Cause I was trying to  
16 follow your -- all those bullets and --

17          **DR. ZIEMER:** Well, basically --

18          **MR. GRIFFON:** I was also comparing SC&A versus  
19 the Board in my head, but I don't have -- you  
20 know, I wondered if we have --

21          **DR. BRANCHE:** It was news to me --

22          **MR. GRIFFON:** -- a written policy or --

23          **DR. BRANCHE:** I was told that --

24          **DR. ZIEMER:** Well, early on --

25          **DR. BRANCHE:** -- there was policy --

1           **DR. ZIEMER:** -- we had a policy written that  
2           said that the Board -- the Board preferred to  
3           be present at meetings where Congress called on  
4           our contractor to give them information.

5           **MR. GRIFFON:** Right.

6           **DR. ZIEMER:** But we also recognized, based on  
7           advice from perhaps your office or at least  
8           from the Secretary's office, that we can't  
9           dictate -- Congressional offices can call on  
10          whoever they want to get information and you  
11          cannot invite yourself into their office, so --

12          **MR. BROEHM:** Right, and that's -- yeah, so I'll  
13          clarify that a little bit. The -- when a  
14          request comes for a briefing by SC&A, as I  
15          understand it, they are then supposed to report  
16          that to Dr. Branche and to you, Dr. Ziemer, I  
17          believe. That then gets -- sort of makes its  
18          rounds to the rest of the Board members. If  
19          there is one, or maybe there are more Board  
20          members, who would like to participate, that  
21          offer may be transmitted to the Congressional  
22          office that's requesting the briefing. They  
23          may say fine, any and all comers, we'd be happy  
24          to have them. They may not. And just getting  
25          back to the sort of Government 101 slide in the

1 beginning of my presentation, we are two  
2 different branches of government with two  
3 different needs, and Congress does serve an  
4 important role in this program. If they want  
5 to invite certain people and not other people,  
6 we -- we don't want to get in the way and so  
7 that's -- that's the procedure we've been  
8 proceeding under.

9 **DR. BRANCHE:** If I can just for -- just for --  
10 in my very short experience, every time SC&A  
11 has been asked to respond to a Congressional  
12 inquiry or participate in a meeting, we've  
13 asked if the Board member -- if a Board member  
14 can be present, and that has always been  
15 honored. And they've even gone to the bother  
16 of setting up a conference line so that you can  
17 participate by phone. So Jason, my question  
18 is, in your experience has there ever been a  
19 circumstance where the Congressional member did  
20 not wish to have a Board member participate?  
21 Okay, I'm being told oh, yes, okay.

22 **DR. ZIEMER:** Early on there were a number --

23 **MR. BROEHM:** I believe there may be one or two  
24 cases, but I think it's probably more the  
25 exception than the rule. I think generally the

1 Congressional staff would be happy to hear from  
2 the different voices who -- both from the Board  
3 and from SC&A in such a briefing.

4 **DR. POSTON:** Dr. Ziemer, I would request --  
5 since there are at least five new members of  
6 the Board and a new Designated Federal Official  
7 -- that if there is such a policy that it be  
8 distributed to us so we can understand it. I'm  
9 --

10 **MR. GRIFFON:** Yeah, I agree.

11 **DR. POSTON:** -- I've taken a poll of the folks  
12 that are here that I can speak to and I know  
13 that none of us have seen such a policy, or  
14 none of us was aware of such a policy.

15 **MR. GRIFFON:** Well, and speaking as an older  
16 member of the Board, I -- I don't -- I remember  
17 the discussion about the one issue there, you  
18 know, as far as attending meetings with  
19 Congress. But I don't remember this being  
20 detailed in a policy --

21 **MR. PRESLEY:** -- this detailed.

22 **MR. GRIFFON:** -- information about when you can  
23 provide -- and I've had these discussions with  
24 several -- I've had them with Christine, I've  
25 had them with Lew Wade about providing opinion,

1           especially as it related to the press, but I've  
2           never seen, you know, these detailed bullet  
3           points laid out this way and I -- I think, if  
4           it is proceduralized, I'd -- I'd like to see it  
5           as well.

6           **DR. ZIEMER:** Well, I'm not talking about these  
7           bullet points. I'm only talking about --

8           **MR. GRIFFON:** The one --

9           **DR. ZIEMER:** -- the presence of the Board in a  
10          --

11          **DR. BRANCHE:** Yeah.

12          **DR. ZIEMER:** -- Congressional request to SC&A.

13          **MR. GRIFFON:** But I mean -- then all this other  
14          stuff --

15          **DR. BRANCHE:** Right, but as far as the --

16          **MR. GRIFFON:** -- is this a non-- is this a  
17          proc--

18          **DR. ZIEMER:** Yeah, that one issue.

19          **MR. GRIFFON:** -- this a policy being --

20          **DR. BRANCHE:** Well, there's several people  
21          speaking at once, I'm --

22          **MR. GRIFFON:** Sorry. I'm asking it -- if all  
23          these things in -- are they a policy from the  
24          agency?

25          **DR. BRANCHE:** Yes, the other --

1           **MR. GRIFFON:** And is there -- and is there a  
2 policy document -- other than just overheads  
3 with bullet points?

4           **MR. BROEHM:** Yeah, I don't think that --

5           **DR. BRANCHE:** Yes.

6           **MR. BROEHM:** -- there is a policy document that  
7 states all of this, that I've ever seen. But  
8 it's the operating procedures that we as a  
9 federal agency, and I think most other federal  
10 agencies, follow as parts of the  
11 administration, that you go through these  
12 clearance processes if you are a federal  
13 employee.

14          **DR. BRANCHE:** Well --

15          **MR. GRIFFON:** So when we -- when we -- as Board  
16 members, if we act -- and I've always -- in my  
17 communications I always say I'm -- I'm speaking  
18 to you as a member -- as a -- as a member of  
19 the public, not for the Advisory Board, not for  
20 the working group, but -- but would -- would  
21 SC&A and the Board members be treated the same  
22 under your policy in that regard? Like if you  
23 speak to Congress or the press as a member of  
24 the public, same rules apply kind of thing, or  
25 -- or not?

1           **MR. BROEHM:** Yes, if you're speaking as a  
2 private citizen, I think basically the same  
3 rules apply.

4           **DR. BRANCHE:** As far as the policy issues, I  
5 can't speak for any other Department, but let's  
6 go back to the clearance issues if you're  
7 speaking as a member of the Board and were  
8 asked specifically in that capacity, all of the  
9 things that Jason explained as far as procedure  
10 -- I can't speak for any other Department. I  
11 do know that the levels of clearance and so  
12 forth apply to the Department of Health and  
13 Human Services. I'm not aware that those are  
14 written, but those are the procedures that  
15 every employee is expected to do. And again,  
16 this distinction between the role as a private  
17 citizen and that as a member officially of the  
18 Board, that's the distinction that I think is  
19 important. And I know that, as I said, many of  
20 you have been I know interacting with the  
21 press. You've made a point to say that you're  
22 speaking as a private citizen. My suggestion  
23 is that you can't over-emphasize that point,  
24 because some of you have been misquoted as  
25 having spoken on behalf of the Board when you

1 did not.

2 **MR. GRIFFON:** But -- but even -- even with that  
3 said, I -- I mean I would really like a hard  
4 copy, and I know you were preparing for  
5 tomorrow, but -- because I think there -- there  
6 was one bullet point up there that said as a  
7 private citizen you couldn't given an opinion  
8 on --

9 **DR. BRANCHE:** Can you put that back up?

10 **MR. GRIFFON:** -- a Board matter or -- and --  
11 and I don't know, there's some nuance in there  
12 that I want to understand.

13 **DR. BRANCHE:** Yes, it's the -- it's the --

14 **MR. GRIFFON:** So --

15 **DR. BRANCHE:** Is it the second or the third  
16 bullet to which you're referring?

17 **MR. GRIFFON:** (Unintelligible) one, but that  
18 means as in a -- as a Board member, not as a  
19 private citizen.

20 **DR. BRANCHE:** Yeah, this --

21 **MR. GRIFFON:** All right. And where -- where  
22 does it talk about us speaking as a private  
23 citizen? Is that on the next slide?

24 **DR. BRANCHE:** All of that applies to you  
25 speaking as a private citizen.



1           **MR. GRIFFON:** So that second bullet applies  
2 speaking as a private citizen? I can't offer  
3 information or opinions about the Board or --  
4 or government actions? I mean why do they want  
5 to talk to me as a -- as a private citizen if  
6 they don't want some information? I think --

7           **DR. BRANCHE:** Well, you have expertise that --  
8 that brings you to a mem-- as a member of the  
9 Board. You have experti--

10          **MR. GRIFFON:** Well -- well, then -- then  
11 compare that to the SC&A bullet on private  
12 citizen. It said that Congress may seek them  
13 out for their opinion. I don't know, I just  
14 want to understand this better, I guess, before  
15 I speak to other people.

16          **DR. BRANCHE:** Yeah, we -- that -- this is your  
17 opportunity to clarify that.

18          **DR. ZIEMER:** I believe what this is saying is  
19 if they ask you what the Board's position is on  
20 something -- for example, what's the Board's  
21 position on -- I don't know, let's pick one out  
22 -- Dow Chemical, Madison. Until the Board  
23 takes such a position, you cannot --

24          **MR. GRIFFON:** Oh, I agree.

25          **DR. ZIEMER:** Yeah.

1           **MR. GRIFFON:** But it wasn't --

2           **DR. ZIEMER:** They could -- they could ask what  
3           a --

4           **MR. GRIFFON:** -- Board's position. It says --  
5           if you can read that again --

6           **DR. ZIEMER:** Well, I'm --

7           **MR. GRIFFON:** I'm just worried about the words,  
8           you see what I'm saying? If this is a policy  
9           document, these overheads are now a policy, I  
10          want to understand them.

11          **DR. ZIEMER:** It was on the other --

12          **MR. GRIFFON:** Back to SC&A, yeah.

13          **DR. ZIEMER:** -- on the other slide.

14          **DR. BRANCHE:** It was the one appearing as a  
15          private citizen.

16          **DR. ZIEMER:** The private citizen slide.

17          **MR. GRIFFON:** About -- about Advisory Board or  
18          other government actions.

19          **MR. BROEHM:** That are -- that are not public  
20          information.

21          **MR. GRIFFON:** That are not public informa--  
22          okay, so it's -- okay.

23          **MS. MUNN:** If they're already public  
24          information, if they're already out there, then  
25          it does not appear that there's any caveat

1 other than that we make certain we're quoted as  
2 private citizens and not --

3 **MR. GRIFFON:** I'm reading through it, that's  
4 why I wanted a hard copy, that's --

5 **DR. ZIEMER:** No, you could say that the Board  
6 has taken --

7 **MR. BROEHM:** Yeah, and I'm sorry you don't have  
8 that in your hands.

9 **DR. ZIEMER:** -- this position on something  
10 where -- where the action is public.

11 **MS. MUNN:** And can even say you disagree with  
12 it, as a private citizen.

13 **MR. GRIFFON:** Right, right, I can say -- yeah.

14 **MS. MUNN:** But -- yeah.

15 **MR. BROEHM:** Are there other questions?

16 **DR. ZIEMER:** Brad has a question.

17 **MR. CLAWSON:** You were mentioning that if we're  
18 called in there to talk to Congress, that we're  
19 supposed to submit to you what we're going to  
20 say. And any time in the past that I've ever  
21 talked to them, I don't know what they're going  
22 to ask so how am I supposed to submit what I  
23 don't know?

24 **DR. BRANCHE:** He's talking about panel  
25 presentations if you were being asked to

1 testify.

2 **MR. CLAWSON:** Okay. Now --

3 **MR. BROEHM:** If -- if you are speaking from  
4 notes that you're not handing out, you don't  
5 need to clear that, although you should -- if  
6 you're speaking in your capacity as a Board  
7 member -- review that with -- with Christine  
8 Branche and go through -- go through those  
9 points in advance. But if you're not handing  
10 those out as -- as PowerPoint slides or a one-  
11 page handout to leave behind, you don't need to  
12 go through the whole clearance process that I  
13 described. It's a little bit more formalized.  
14 And then when speaking of testimony, that sort  
15 of takes it to the next level. That's --  
16 that's where you go through a long -- weeks-  
17 long process, in some cases, of reviewing at  
18 the varied levels and having comments  
19 submitted.

20 **MR. ELLIOTT:** But I --

21 **DR. ZIEMER:** Larry Elliott.

22 **MR. ELLIOTT:** -- I think it's well-advised that  
23 if you walk in with notes, you better expect  
24 that they're going to want a copy. At least  
25 that's been my experience.

1           **MR. CLAWSON:** So --

2           **MR. BROEHM:** It depends -- it depends what  
3           those notes look like. If you have just  
4           handwritten notes, it's one thing. If you go  
5           in with a full PowerPoint presentation that  
6           you're just using on -- for yourself, they may  
7           say "Oh, can I have a copy of that?"

8           **MR. CLAWSON:** So you're telling me just --

9           **MR. BROEHM:** So you need to be prepared for  
10          that.

11          **DR. BRANCHE:** And then it needs to have been  
12          cleared.

13          **DR. ZIEMER:** Brad?

14          **MR. CLAWSON:** So you're -- you're telling me  
15          just shoot from the hip and enjoy it,  
16          basically, huh? You know, it's very, very  
17          interesting to me that we have so many  
18          different policies for so many different  
19          groups. I understand the importance of not  
20          representing the Board or anything else like  
21          that, but why -- why would a member of the  
22          Congress or whatever else want to talk to us  
23          but to be able to gain our opinion? And it --  
24          it's interesting to me and I realize that  
25          they're calling SC&A in to talk to them about

1 the Board, but they have a totally different --  
2 a totally different process to be able to go  
3 through. It's -- it's -- well, it's -- it's  
4 the government, I guess.

5 **DR. ZIEMER:** Okay. Phil?

6 **MR. SCHOFIELD:** I've got one concern, and  
7 that's where some Congressional office contacts  
8 you out of the blue and has particular  
9 questions, maybe about a certain workgroup or  
10 issue that's coming up, and wants to know where  
11 you're headed on that where -- you know, I'd  
12 like a little more clarification on that. Do  
13 we stall for time or...

14 **MR. BROEHM:** Well, you know, that's something  
15 that happens to people in HHS, too. And  
16 sometimes it's by design, sometime it's just  
17 because they see that as the most direct route  
18 or don't know that my office even exists. But  
19 if you're caught on the phone and they're  
20 asking for information, you could say "Could I  
21 call you back?" and alert Christine and --  
22 and/or myself, and we can facilitate that  
23 conversation at greater length. If they have  
24 very simple questions just about, you know,  
25 when's the next workgroup meeting going to be,

1           you don't need to go through that whole  
2           process, I would say. But it -- it does happen  
3           and, you know, I wouldn't be overly worried  
4           about that. But as a general rule I would try  
5           to include the two of us.

6           **DR. BRANCHE:** And if it does -- if it does  
7           happen, something that simple, then -- and  
8           someone just asks you when the next workgroup  
9           meeting is, then you could -- I would encourage  
10          you to send a courtesy message to me to let me  
11          know that that contact has happened.

12          **DR. ZIEMER:** But there's a lot of information  
13          like that you can answer very simply, and it's  
14          public information anyway. People may not have  
15          known where to find it on the web site or  
16          something like that.

17          But on the other hand, and I'll just mention  
18          this and then we'll call on a couple more folks  
19          here, but a couple of weeks ago I got an  
20          extensive inquiry from a Senator's office  
21          asking the amount of money spent by this panel  
22          to investigate issues at certain sites in the  
23          country and wondering how that compared with  
24          other sites in the country, I think trying to  
25          determine whether this particular Congressional

1 district was getting their fair share of  
2 attention -- or whatever. But -- and the  
3 office asked for that information back from me  
4 in 30 days.

5 Well, number one, we have a rule that says you  
6 -- we cannot respond to Congressional inquiries  
7 -- the Chair can, nor can the members --  
8 without clearing it first with the Board  
9 anyway, so we don't have a way to do that in 30  
10 days. Further, the information was not  
11 information that I could readily get my hands  
12 on. So I turned it over to Christine and --  
13 and through their office, maybe working with  
14 Jason, I don't know, was able to get the letter  
15 redone and redirected so the Congressional  
16 office made the inquiry of NIOSH to get the  
17 information. But some of the -- some of the  
18 inquiries are done in good faith, but they are  
19 things we should not get involved in.

20 **MR. GRIFFON:** Right.

21 **DR. ZIEMER:** Now, Wanda, then Michael.

22 **MS. MUNN:** One of the things that continues to  
23 be of concern with respect to interactions with  
24 Congress is the persistent view that our  
25 contractor is not our contractor but rather our



1 auditor. In almost every case when I've had  
2 occasion to interact, either here in this  
3 setting or elsewhere, with Congressional staff,  
4 the approach has always been that of "Your  
5 auditor has said -- has these findings." It is  
6 a concern to -- I -- certainly to me, and I  
7 think to others, that that misunderstanding  
8 applies. But it certainly seems to be the  
9 primary reason -- there are two primary  
10 reasons, apparently, why Congressional staff  
11 are so eager to speak with SC&A. One is they  
12 view them as auditors, and two, they are  
13 accessible. They have people available in  
14 Washington, D.C. to be able to go to their  
15 offices easily. So I rely on you, Jason, to  
16 help supply staff with that revised, correct  
17 view of what the association is and what  
18 findings are being brought to them without  
19 having been vetted in this -- in this forum as  
20 being preliminary findings, always. It's --  
21 there are several things that -- that we look  
22 to you as a person to do, and I hope -- we have  
23 no way of knowing that you are in fact doing  
24 that, so it would be helpful, for me, to hear  
25 from you that you do in fact make that effort

1           because it seems to be such a consistent  
2           misunderstanding that we encounter.

3           **MR. BROEHM:** In every communication I have with  
4           a Congressional staff person working on this  
5           issue -- and in many cases, especially for  
6           staff who have worked on this and continue to  
7           work on this -- it's a continued conversation  
8           over many e-mails and phone calls to continue  
9           to explain and re-explain this program. It's  
10          very complex and it's not always intuitive to -  
11          - to staff who are coming to it new. I always  
12          do my best to explain to them what the Board is  
13          and what SC&A's role for the Board is.

14          Now to the extent that there may be  
15          misconceptions of what SC&A's role is out  
16          there, and I don't hear from those staff, I may  
17          not even know that, what their -- what their  
18          idea is of SC&A's role. But certainly in phone  
19          conversations and e-mails that I have, I put  
20          out the information in terms of what -- what  
21          role they provide and support they provide to  
22          the Board is -- is really what it is. I  
23          continue to hear the word "auditor" and I don't  
24          really know where that came from, but it sort  
25          of has caught hold and, you know, I'll just --

1 all I can say is I'll continue, as I have  
2 conversations with staff, to -- to explain what  
3 SC&A's role is.

4 **MS. MUNN:** That's appreciated. Thank you.

5 **MR. BROEHM:** Thank you for the question.

6 **DR. ZIEMER:** Brad? Oh, Mike -- Mike was first  
7 --

8 **MR. CLAWSON:** Go on, Mike.

9 **DR. ZIEMER:** -- and then Brad.

10 **MR. GIBSON:** As far as the proposed testimony,  
11 PowerPoint presentations, whatever, what  
12 exactly are they going to be reviewed for?

13 **DR. BRANCHE:** You would be speaking on behalf  
14 of the administration, essentially, 'cause you  
15 repre-- in this capacity, you represent the  
16 Executive Branch of government in your special  
17 -- as a special government employee.

18 **MR. GIBSON:** And in my role as a government  
19 employee, it's my duty to monitor how HH-- HHS  
20 is implementing this legislation. So if I give  
21 draft testimony that I'm asked to give for your  
22 review, doesn't that kind of -- the fox  
23 watching the hen house?

24 **DR. BRANCHE:** When you --

25 **MR. BROEHM:** You -- I mean you're appointed by

1 the President of the United States.

2 **MR. GIBSON:** Correct.

3 **MR. BROEHM:** You are a government employee.  
4 You work for him. So I'm in the same position.  
5 I can't just go up to Congress in my role as a  
6 CDC employee and say whatever I want. Usually  
7 government employees who do that are considered  
8 whistleblowers. You -- again, I explained that  
9 you, as Board members, are in a little bit of a  
10 special case here and that's why we have the  
11 two paths available to you. One is to speak in  
12 your role as a Board member. The other is to  
13 speak as a private citizen, where perhaps you  
14 can be more frank and critical of the program.  
15 You know, I don't think in terms of going  
16 through the administration review process that  
17 if you had something that was critical of -- of  
18 NIOSH, or you had recommendations that -- that  
19 you thought -- some changes that could be made  
20 to improve the program, those would necessarily  
21 be taken out. But there are things -- if you  
22 put in your testimony, for instance, that the  
23 Advisory Board needed \$10 million next year,  
24 those are the kinds of things that we can't put  
25 in our testimony if it's not in the

1 administration budget. So it's -- it's making  
2 sure that -- that administration policy is  
3 followed, making sure that you're not asking  
4 Congress for vast new resources that aren't in  
5 the administration's budget. It's --

6 **MR. GIBSON:** And actually --

7 **MR. BROEHM:** It's again why we have the two  
8 paths open to you. And when -- you know, when  
9 -- I know an Advisory Board member has spoken  
10 in the past and testified to Congress, that it  
11 was in that private citizen role and -- that --  
12 that was one option.

13 **MR. GIBSON:** But --

14 **MR. GRIFFON:** Was that Dr. Melius?

15 **MR. BROEHM:** Yes.

16 **MR. GRIFFON:** He was -- role as a private citi-  
17 - okay.

18 **DR. BRANCHE:** And his testimony --

19 **MR. BROEHM:** And he -- he worked --

20 **DR. BRANCHE:** -- was cleared.

21 **MR. GRIFFON:** Right.

22 **MR. BROEHM:** He wor-- he coordinated very  
23 closely with the former Designated Federal  
24 Official, Dr. Wade.

25 **MR. GRIFFON:** That was (unintelligible).

1           **MR. BROEHM:** Yeah. So again, it's just an  
2           example of whenever this -- this comes up and  
3           there's a need for a briefing, a hearing,  
4           whatever, it's important just I think to get in  
5           touch with Christine very early in the process  
6           and then, you know, we can work through the  
7           proc-- through what the next steps are from  
8           there and what your options are.

9           **MR. GIBSON:** But -- well, my options are  
10          limited as a private citizen. I can't use  
11          information or opinions about Board activities.  
12          But if I'm questioned -- asked to give  
13          testimony or whatever as a Board member, then I  
14          have to have this thing scrubbed, not knowing  
15          what'll come out of it. That just doesn't  
16          seem...

17          **DR. BRANCHE:** Let me just make a distinction,  
18          and as -- I think the operative part of that  
19          clause is "that are not public information."  
20          As a private citizen, you can speak about Board  
21          policy, about Board information that's made  
22          public. You can -- you can do that, and you  
23          can offer an opinion on that as a private  
24          citizen.

25          **MR. GIBSON:** Okay.

1           **DR. ZIEMER:** Okay, Brad.

2           **MR. CLAWSON:** I just wanted to make sure as  
3 we're -- as we're discussing this and stuff and  
4 we've brought up SC&A, that -- that people  
5 understand and realize that John Mauro and the  
6 rest of SC&A staff have gone to great lengths  
7 to be able to try to involve us in it, and have  
8 done an excellent job and we're not -- we're  
9 not in any way, shape or form criticizing that.  
10 I just wanted to make that distinction.

11          **MR. BROEHM:** And as I understand it, when they  
12 have a meeting that they then do inform the  
13 Board of -- sort of a summary of what happened  
14 at the meeting, so from summaries that I've  
15 seen, those seem to be fairly detailed and --  
16 and accurate -- not having been in the room,  
17 but I mean they seem to not -- not to be too  
18 abbreviated or -- or leave things out.

19          **DR. ZIEMER:** Okay. Mark, another comment?

20          **MR. GRIFFON:** Yeah, the only -- I -- I -- and  
21 I'm going back to Christine's reference there  
22 that -- that are not public information, and  
23 that is reassuring in some ways. The only  
24 concern I have with that is in -- in a role of  
25 a work -- workgroup chair, if -- and that's

1 when you -- you typ-- I've typically run into  
2 staffers is the -- the SEC process or whatever.  
3 As we all know, things are -- are often real  
4 time, so you know, we always -- this goes back  
5 to this review process and the ability to have  
6 documents that are public. If something's  
7 discussed on the -- on a workgroup phone call,  
8 I would assume that's public information, even  
9 if the transcript's not ready yet. Right?

10 **DR. BRANCHE:** We make -- we make --

11 **MR. GRIFFON:** Yeah.

12 **DR. BRANCHE:** -- the workgroup meetings  
13 available for the public --

14 **MR. GRIFFON:** So they -- right.

15 **DR. BRANCHE:** -- to participate, and  
16 Congressional members are often --

17 **MR. GRIFFON:** Right.

18 **DR. BRANCHE:** -- on the phone for those.

19 **MR. GRIFFON:** So to the ext-- I mean this  
20 information was discussed publicly --

21 **DR. BRANCHE:** That's right.

22 **MR. GRIFFON:** -- so if someone calls me to  
23 follow up on that, I can give my opinion --

24 **DR. BRANCHE:** As a private citizen.

25 **MR. GRIFFON:** -- on that as a private citizen,



1 right.

2 **DR. ZIEMER:** There could be some details in the

3 --

4 **MR. GRIFFON:** Yeah.

5 **DR. ZIEMER:** -- paperwork that the Board is  
6 discussing that's redacted --

7 **DR. BRANCHE:** Right.

8 **DR. ZIEMER:** -- information for the public, so  
9 --

10 **DR. BRANCHE:** And then that's not --

11 **DR. ZIEMER:** -- so that part could still not be  
12 disclosed.

13 **DR. BRANCHE:** Excellent.

14 **MR. GRIFFON:** Right.

15 **MR. BROEHM:** But I -- I would say, Mark, in  
16 response to your question, it probably is  
17 fairly typical of the Congressional staff,  
18 having sat through a whole, you know, hours or  
19 three-hours-long call, may come out of that  
20 with some questions and --

21 **MR. GRIFFON:** Right, right.

22 **MR. BROEHM:** -- I think it's -- it's likely you  
23 are going to get that kind of question as a  
24 workgroup chair.

25 **MR. GRIFFON:** As what?

1           **MR. BROEHM:** It is likely that you are going to  
2           get that kind of question as a workgroup chair  
3           --

4           **MR. GRIFFON:** Right.

5           **MR. BROEHM:** -- of, you know, what -- what --

6           **MR. GRIFFON:** And then it's okay --

7           **MR. BROEHM:** -- what just happened, and  
8           explain.

9           **MR. GRIFFON:** As long as it's okay as a --

10          **DR. BRANCHE:** Right.

11          **MR. GRIFFON:** -- not representing the  
12          workgroup, I always say that --

13          **DR. BRANCHE:** Right.

14          **MR. GRIFFON:** -- you know, but it's okay to --  
15          to offer my opinion on where -- usually they  
16          want to know well, what's the next steps, did I  
17          miss, you know, something here, you know, or  
18          when's the next meeting, sometime -- you know,  
19          how's this going to be -- you know.

20          **DR. BRANCHE:** And the only thing I would offer,  
21          again, Jason said to you, it has been helpful -  
22          - and this really is a protection to you -- to  
23          the degree that Jason and/or I can be on the  
24          line with you when you speak to that member of  
25          Congress so that we can explain that divide to

1 kind of keep -- it's meant to keep you out of  
2 trouble in that regard. And there's always a  
3 tension -- I just mention this again because we  
4 have a lot of people in the audience who've  
5 also participated in the -- in some of the  
6 workgroup calls -- the Board has put a value on  
7 having information as close to real time as  
8 possible, which means that you're often  
9 discussing documents that have not been Privacy  
10 Act reviewed, and there's always going to be  
11 that tension of having the latest information  
12 that SC&A or NIOSH has provided and you'll end  
13 up discussing it without it being yet made  
14 available for the public. If you have set your  
15 information up in such a way that you have your  
16 information available, we can -- and it has  
17 been Privacy Act cleared, we do try to get that  
18 information on the web site in advance of your  
19 meeting. But many of you are presiding over  
20 issues where people are working up to the last  
21 minute, and you're always going to have to  
22 fight that tension, and that's cover that Jason  
23 and I can provide for you in your interactions  
24 with members of Congress and the public -- and  
25 the press.

1           **DR. ZIEMER:** Okay. Thank you. Jason, thank  
2 you again very much.

3           **MR. BROEHM:** Sure, thank you.

4           **DR. ZIEMER:** It's been a very fruitful  
5 discussion. We're going to take our break now.  
6 It's five after 3:00. We actually will -- yes,  
7 let's reconvene in 20 minutes.

8           **DR. BRANCHE:** Twenty minutes?

9           **DR. ZIEMER:** Yes.

10          **DR. BRANCHE:** So at 25 after the hour.

11          **DR. ZIEMER:** Yeah.

12          **DR. BRANCHE:** Okay, we'll put the phone on  
13 mute.

14                   (Whereupon, a recess was taken from 3:05 p.m.  
15 to 3:25 p.m.)

16          **DR. BRANCHE:** Everyone please take your seat,  
17 we're about to -- we're going to start right  
18 now.

19                                   (Pause)

20           We are restarting the meeting after the break.  
21           Could someone on the line please let me know  
22           that you can hear me?

23          **UNIDENTIFIED:** We can hear you.

24          **DR. BRANCHE:** Thank you very much. I  
25 appreciate that. Now if you could please mute

1           your phones, I would appreciate it. If you do  
2           not have a mute button, then please use star-6;  
3           and when you're ready to speak, please un-mute  
4           your phone with the same star-6. And again I  
5           ask that if you are participating by phone, it  
6           is critical that you mute your lines. Also do  
7           not put us on hold. If you feel like you have  
8           to leave the line, then please hang up and dial  
9           back in, but do not put us on hold. Thank you  
10          so much.

11          Dr. Ziemer?

12          **DR. ZIEMER:** Don't you wish you could say that  
13          when you call your service provider for help --  
14          do not put me on hold.

15          **DEPARTMENT OF LABOR UPDATE**

16          We're going to jump ahead again on the agenda  
17          for a brief time and pull in a presentation  
18          that was originally scheduled for tomorrow  
19          afternoon, and that is the Department of Labor  
20          update. And it's probably good we do that this  
21          morning -- this afternoon. Jeff Kotsch from  
22          Labor is here and we earlier this afternoon had  
23          the update from the -- from NIOSH, so -- and  
24          usually we have those kind of next to each  
25          other, so it's good we'll get the NIOSH and

1 Labor people a little closer together again.  
2 Jeff, welcome back to the podium. We're  
3 pleased to have your report.

4 **MR. KOTSCH:** Thank you. Good afternoon. I  
5 have to apologize. First of all, I'm wading  
6 through the back end of a cold and I'm -- so my  
7 voice is a little rough. Also since -- I'll --  
8 I'll at least take time to put in the caveat  
9 that since I was supposed to be up tomorrow,  
10 and since I've been kind of under the weather,  
11 I haven't really been looking at the  
12 presentation that much so we'll work through  
13 that, too. And then also I should just say  
14 that some of the stuff is -- or the information  
15 is redundant, Board meeting to Board meeting.  
16 Some of it's background information and that's  
17 primarily for the members of the audience that,  
18 you know, might be new to the meeting rather  
19 than the Board, who constantly gets inundated  
20 with this presentation, which is updated  
21 number-wise, but -- every -- every couple of  
22 months.

23 And the other caveat I always make is with  
24 respect to Larry's numbers and our numbers, we  
25 -- we don't agree normally anyway, so as far as

1 numbers go and some other things --

2 **MR. ELLIOTT:** Mine are right.

3 **MR. CLAWSON:** Now, kids.

4 **MR. KOTSCH:** -- it's all a matter of  
5 perspective. But no, the numbers -- we do take  
6 snapshots at different points in time, plus --  
7 of our cases and claims. And also obviously  
8 things are moving back and forth, it's a  
9 dynamic situation between NIOSH and Labor as  
10 far as the caseloads go, so it's -- I don't  
11 know that we could ever match the numbers, even  
12 on a specific day.

13 Just a little background on the Energy  
14 Employees Occupational Illness Compensation  
15 Program Act. Part B, which is the program --  
16 part of the program that we talk about here in  
17 these meetings, became effective on July 31st,  
18 2001. We show 72,273 cases, which encompasses  
19 90,985 claims, have been filed as of June 16th.  
20 The number of claims is always -- I always  
21 mention this, too, then and Larry does, too --  
22 the number of claims is always higher than the  
23 number of cases because cases often have more  
24 than one claimant, especially in the -- in the  
25 event of a survivor claim. 40,809 have been

1 cancer cases and 27,289 cases have been  
2 referred to NIOSH.  
3 Part E, which is the other part of the program,  
4 that DOL administers became effective on  
5 October 28th, 2004. That was formerly the Part  
6 D program that was administered by DOE, and in  
7 that part of the program we have 52,458 cases  
8 for -- and that includes 72,972 claims. When  
9 we initiated that program we received from the  
10 Department of Energy about 25,000 cases.  
11 The -- as far as compensation for the program,  
12 as of -- again, I think the 16th is the  
13 operative date for most of these slides --  
14 we've compensated a total of about \$3.8  
15 billion. About 64 percent of that is Part B  
16 claims. That's about \$2.5 billion; \$1.9  
17 billion of that is cancer; 287 would be the  
18 RECA claims, the -- the miners, millers, ore  
19 transporters; and then the remainder of that is  
20 tied up with silicosis claims, the beryllium  
21 claims -- chronic beryllium disease and  
22 beryllium sensitivity type things.  
23 \$1.1 billion is for Part E claims. Again,  
24 those are the -- Part E is -- in simple terms,  
25 is -- are the non-cancer carcin-- I mean



1 chemical exposure, toxicity types exposures  
2 that early on in the program we couldn't deal  
3 with and now we can deal with on -- in that  
4 part of the program; exposures to asbestos,  
5 different chemical -- a lot of degreasers,  
6 things like that. And in complement to that,  
7 the \$226 million in medical benefits that are  
8 paid along with the claims.

9 As far as Part B benefit overviews -- this is  
10 just a quick one -- who's eligible, current and  
11 former employees of Department of Energy, it's  
12 contractors, subcontractors, Atomic Weapons  
13 Employers, beryllium vendors, uranium miners,  
14 millers, ore transporters who worked at the  
15 facilities covered under Section 5 of the RECA  
16 -- of RECA, which is administered by the  
17 Department of Justice, and certain family  
18 members of deceased workers.

19 And then quickly again, claim-- claims for Part  
20 B can be -- primarily what we're dealing with  
21 here are the NIOSH -- the ones where NIOSH gets  
22 involved with, which involve primary cancers.  
23 There's also chronic beryllium disease,  
24 beryllium sensitivity, chronic silicosis and,  
25 again, the RECA Section 5 claims.

1           The claims filed for cancer under Part B of the  
2           Act, potentially any cancers covered under Part  
3           B, if it is determined that the covered  
4           employee was a member of the SEC and was  
5           diagnosed with a specified cancer -- those are  
6           the listed cancers in the -- in the Act -- or  
7           if it is determined through a dose  
8           reconstruction conducted by NIOSH that the  
9           covered employee's cancer was at least as  
10          likely as not -- which is interpreted as 50  
11          percent or greater -- caused by radiation  
12          exposure.

13          The Part B -- the status under the Act of the  
14          Part B cancer claims is 40,809 cases, having  
15          62,900 claims. That's -- have had -- okay, I'm  
16          sorry, let's start again. 40,809 cases, with  
17          62,900 claims, 33,118 of those have final  
18          decisions. Under the Department of Labor  
19          program the case comes in, is developed for  
20          medical and employment information. If it's a  
21          cancer claim, it goes to NIOSH. They continue  
22          to develop -- develop and produce the dose  
23          reconstruction report, comes back to us at  
24          Labor, and then a recommended decision is made.  
25          That's shared with the claimant. They have the

1 opportunity to object, basically. Whether it's  
2 objected to or not, it goes then to the -- to  
3 what we call a Final Adjudication Branch, also  
4 inside the Department of Labor. They render a  
5 final decision, either to compensate or not to  
6 compensate, and that's what we're talking about  
7 here -- 33,118 cases have final decisions;  
8 1,814 cases have recommended but no final  
9 decisions, they're in the process where they're  
10 with the Final Adjudication Branch; we are  
11 showing 4,192 cases at NIOSH as of June 12th;  
12 and 1,685 cases are pending an initial  
13 decision, they're in the development process or  
14 they have a dose reconstruction but it hasn't  
15 been reviewed yet or incorporated into a  
16 recommended decision.

17 This is the standard graphic we often show, the  
18 final decisions approved on the left, 13,176.  
19 On the right, the denied final decisions,  
20 19,942. That's the red bar. The other bars,  
21 going across, 32 -- I'm sorry, 3,425 for non-  
22 covered employment at facilities that -- or  
23 locations that are not covered under the Act;  
24 11,963 that have probability of causation is --  
25 POC's less than 50 percent; 3,074 with

1           insufficient medical evidence of a -- of a  
2           cancer; 1,100 with non-covered conditions. In  
3           the early days -- I mean that's still Part B  
4           decisions. In the early days we couldn't do  
5           anything with those. Now we can refer those --  
6           we work these cases as both Part B and E at the  
7           same time, so they would be hopefully covered  
8           under the Part E side if they weren't cancers -  
9           - or at least if not -- I mean not covered, but  
10          at least be -- be looked at under the Part E  
11          side. And 380 cases were denied after  
12          determinations of ineligible survivors.  
13          And Special Exposure Cohorts -- Larry talked  
14          about this -- employment criteria -- the  
15          initial ones are in the Act, the three gaseous  
16          diffusion plants, certain nuclear tests --  
17          prominently up in Alaska at Amchitka, and then  
18          of course the new SEC classes that are added --  
19          that have been added by the Board. They  
20          include the specified cancers, the cancers that  
21          are listed on the specified cancer list.  
22          Causation is presumed, there's no dose  
23          reconstructions necessary for inclusion in the  
24          SEC. And the process is that HHS recommends  
25          SEC designation and if Congress -- the

1 Secretary does, and if Congress does not object  
2 within 30 days, the facility becomes -- or it  
3 gets added as an SEC class.

4 As of June 12th we're showing, as far as new  
5 SEC-related cases, 1,803 cases have been  
6 withdrawn from NIOSH for review. Often if  
7 they're -- if they're there for dose  
8 reconstruction, an SEC class is implemented,  
9 then we with-- we compare our lists with NIOSH  
10 lists and withdraw those cases to be reviewed  
11 as far as being considered under the SEC class.  
12 1,549 have final decisions issued; 128 have  
13 recommended but no final decisions; 52 are  
14 pending, probably for additional information;  
15 and 74 have been closed. So that's 92 percent  
16 have final decisions so far of all the cases  
17 that are affected by the SEC classes.

18 As far as referral to NIOSH -- again, this is  
19 the 16th -- we show 27,264 cases have been  
20 referred to NIOSH; 19,618 have been returned  
21 from NIOSH. Of those, 17,373 have dose  
22 reconstructions. I'm not sure -- it's got to  
23 be a bigger number, but 23 being reworked for  
24 return to NIOSH -- oh, that's within -- within  
25 the Labor hierarchy -- and 2,222 are with --

1           have been withdrawn from NIOSH with no dose  
2           reconstruction.  
3           We're showing 7,646 cases currently at NIOSH,  
4           4,237 of those are initial or original  
5           referrals to NIOSH and 3,409 of those are  
6           reworks or returns to NIOSH, ones that had a --  
7           had an initial dose reconstruction and then --  
8           for a number of reasons, like Larry addressed,  
9           PERs or -- occasionally -- well, not  
10          occasionally, the primary driver other than  
11          PERs for -- Performance Evaluation Reports, for  
12          our returning cases to NIOSH or dose  
13          reconstructions to NIOSH is they're -- the  
14          determination that there may be a new cancer,  
15          there may be additional employment, things like  
16          that that drive us to want to send that --  
17          return that case back to have the dose  
18          reconstruction looked at again to determine  
19          whether that denied case could move towards  
20          compensability.  
21          The dose reconstruction case status -- this  
22          slide's showing final decisions for 85 percent  
23          of the cases. 17,373 cases have dose  
24          reconstructions. I think the slide might be a  
25          little off. We corrected this number to match

1 the previous slide. 14,745 dose reconstructed  
2 -- dose reconstructed cases have final  
3 decisions. 2,152 dose reconstructed cases have  
4 a recommended but no final decision -- that  
5 means they're somewhere in the -- in our FAB --  
6 Final Adjudication process. And 476 dose  
7 reconstructed cases have a recommended  
8 decision. That's -- again, we have the dose  
9 reconstruction from NIOSH. We're just working  
10 through the -- the District Offices are just  
11 working through the process of creating the  
12 recommended decision, so that's...  
13 Again, NIOSH case-related compensation is -- is  
14 a piece of the larger total compensation. But  
15 even at that, we have \$1 billion in  
16 compensation for NIOSH-related cases. 10,380 -  
17 - I'm sorry, 10,338 payees in 6,722 cases. Of  
18 that total, \$810 million have been based on  
19 dose-reconstructed cases. That's 7,656 payees  
20 covering 5,400 -- 5,420 cases. And another  
21 \$193 million has been added due to the SEC  
22 classes. That's 2,682 payees in 1,302 cases.  
23 This slide is the paid cases under the Act, so  
24 there have been -- this is the -- yeah, these  
25 are the total numbers, 30,384 paid Part B and E

1 cases. 20,521 of those have been Part B cases.  
2 That included 12,000 -- almost 13,000 cancer  
3 case payees, 5,755 RECA case payees. Again,  
4 the -- the uranium -- uranium miners, millers  
5 and ore transporters. And 1,788 other Part B  
6 case payees, primarily the beryllium and the  
7 silicosis. And 9,800-plus Part E cases.  
8 Again, the toxic exposure type cases.  
9 The last time, the Board asked -- and I -- I  
10 still want to have a -- or a more of a graph  
11 generated, like Larry generates, but I don't  
12 know how much that's going to add. But anyway,  
13 they had asked about the level of cases that  
14 we're getting in, and this still isn't quite  
15 what I think we -- you probably want to see,  
16 but it's a start anyway. The first -- the  
17 upper part is the new Part B cases received by  
18 Department of Labor monthly. Just starting  
19 recently, in March of this year, 2008, we had  
20 354 cases; then April, 398; May, 381; and 152  
21 in June. So those are Part B cases. I didn't  
22 bother with the Part E cases. Again, a lot of  
23 cases come in and -- or every case that comes  
24 in is considered both under Part B and Part E,  
25 but these would be specifically ones that had



1 cancer -- or at least cancer's a part -- as  
2 part of the particular case.

3 The Part B cases that were sent to NIOSH is,  
4 again, clouded by -- or shows -- it's -- it's  
5 not just strictly each month what we forwarded  
6 to NIOSH that was a new case. Unfortunately  
7 some of these numbers -- and I wasn't able to  
8 tickle it out of it yet -- you know, some -- it  
9 would include reworks for PERs, SEC things, but  
10 primarily the rework numbers so in March of  
11 2008 we sent 677 cases; April, 502; May, 358;  
12 and June, 119. So you would expect that number  
13 normally to be less than -- if you were just  
14 strictly looking at new Part B cases the  
15 Depart-- to the Department of Labor and cases  
16 that we then forward to NIOSH for dose  
17 reconstructions, you should expect those  
18 numbers to be smaller than the incoming because  
19 cases that come into Labor also are considered  
20 for, again, chronic beryllium disease,  
21 beryllium sensitivity, silicosis, that kind of  
22 stuff. So there would be cases coming in that  
23 would be not -- would be more than just cases  
24 that we for-- forward to NIOSH. So the  
25 beginnings of those ones are ones that are also

1 including cases that we're sending back for  
2 reworks. But we'll -- we'll work at this.  
3 We're try-- I'm trying to get a better  
4 indication of what -- but that last number is  
5 actually probably not too bad, the 152 -- I  
6 always use the rule of thumb it's about 200  
7 cases a month that we've been getting in, been  
8 pretty steady as far as Part B cases. And  
9 we'll try to get a better -- I have to admit, I  
10 don't -- I'm not always sure how many cases  
11 just strictly go on to NIOSH and it -- there's  
12 also a lag there because it may come in one  
13 month and get sent to NIOSH the next month as  
14 we develop for the medical and employment that  
15 they need for -- for the -- for the -- to  
16 actually proceed with a dose reconstruction --  
17 or for even us to proceed with determining  
18 whether that case is one that we can work to a  
19 decision.

20 As is the case, we usually try to -- and there  
21 -- there don't -- don't appear to be too many  
22 new SEC presentations at this meeting. We  
23 usually try to provide some background  
24 information on -- on the -- the SEC classes  
25 that are up in front of the Board, just for --

1 for background.

2 First there's the Y-12, what I call the early

3 years, '43 to '47, which is a -- it's -- the Y-

4 12 Plant itself has -- has other SECs and it's

5 -- it's been one of the major cl-- you know,

6 sources of cases in the program. Cases, both

7 Part B and E, we've had almost 12,000 from the

8 Y-12 Plant. We've had -- we're indicating

9 about 2,200 NIOSH dose reconstructions and a

10 little over 4,300 Part B final decisions

11 resulting in 2,736 Part B approvals, 2,354 Part

12 E approvals, for a total compensation in both

13 Part B and E of \$50-- I'm sorry, \$531 million.

14 The Dow Madison site, we're showing both Part E

15 and -- Part B and E cases, 357; 3 NIOSH dose

16 reconstructions; 99 Part B decisions; 67 Part B

17 approvals; zero -- it's not a -- it's an AWE

18 site so that's not covered under Part E of the

19 program; and \$9 million in compensation.

20 And at Spencer Chemical we're showing -- again,

21 this slide's got a date of June 17th, we're

22 showing 53 cases from Spencer -- I'm sorry, I

23 guess -- you know, I'm sorry, Dow Madison is

24 both Parts -- Part -- Spencer is both Parts B

25 and E -- Spencer is Part B only. That means

1           there's no Part E evaluation, 53 cases, two  
2           final decisions under Part B and we have not --  
3           we have -- there's been no compensation at  
4           Spencer Chemical.

5           And that's it.

6           **DR. ZIEMER:** Okay, thank you, Jeff. Phil, do  
7           you have a starting question?

8           **MR. SCHOFIELD:** Do you have any statistics as  
9           to how many of the claimants or payees that  
10          there's been a final decision made, that they  
11          passed away before they were either notified or  
12          paid?

13          **MR. KOTSCH:** I -- I have to admit, I don't have  
14          -- I know -- I know we have statistics on that.  
15          I don't have them with me and I -- and I know  
16          that unfortunately that's not an uncommon  
17          occurrence, but I don't know -- I don't have  
18          the actual numbers. I mean I -- I know that it  
19          happens with -- with -- with some frequency  
20          that's not, unfortunately, you know, a small  
21          frequency, but I don't know how -- how often.  
22          But I can -- I can check on that number for  
23          you. I know that happens a lot and then we  
24          have to -- to proceed with, you know,  
25          developing the survivors and then just

1 processing that -- that, so unfortunately it  
2 takes a little bit longer, but those -- those  
3 do still get paid.

4 **DR. ZIEMER:** Other comments or questions?

5 (No responses)

6 Okay. Jeff, again, we thank you, as always,  
7 for a concise update on the -- the pool of data  
8 from Department of Labor, and we look forward  
9 to continued interactions with you.

10 **PUBLIC COMMENT**

11 We're going to move in a moment to our public  
12 comment period. I'm going to take a brief  
13 break in order to get the list of those who  
14 wish to participate. If you wish to  
15 participate in the public comment session --  
16 and there will be another one tomorrow as well  
17 -- but in today's session and have not already  
18 signed the paper, we'll give you a couple of  
19 minutes to get out there in the corridor and  
20 get your name on the list. And in just a  
21 moment the list will be brought in and we'll  
22 begin that session. So we're going to take  
23 about a five-minute brief break here and then  
24 we'll resume.

25 **DR. BRANCHE:** We'll put the phone on mute.

1           **DR. ZIEMER:** And the phone here will go on mute  
2 during that period.

3           (Whereupon, a recess was taken from 3:50 p.m.  
4 to 4:00 p.m.)

5           **DR. ZIEMER:** We're going to begin the public  
6 comment session of the Board meeting. In just  
7 a moment I'm going to ask Dr. Branche to read  
8 the redaction policy. I also want to alert the  
9 speakers that the Board has a 10-minute time  
10 limit on public comments. Also that 10-minute  
11 is considered an upper limit, not a goal to be  
12 achieved. You can think of the difference  
13 there.

14           We generally like to think of the public  
15 comment period as just that, comments. It is  
16 not generally a question/answer session,  
17 although sometimes we do provide -- or try to  
18 provide answers if you have certain questions.  
19 We try to avoid getting into details of  
20 individual cases. NIOSH does have caseworkers  
21 available if you have a particular question on  
22 a particular case that needs to be answered.  
23 So with that, I'm going to ask Dr. Branche to  
24 read the redaction policy in connection with  
25 the public comments.

1           **DR. BRANCHE:** Thank you, Dr. Ziemer. If a  
2 person making a comment gives his or her name,  
3 no attempt will be made to redact the name. If  
4 an individual, in making a statement, reveals  
5 personal information -- for example, medical  
6 information -- about themselves, that  
7 information will not usually be redacted. The  
8 NIOSH Freedom of Information coordinator will,  
9 however, review such revelations in accordance  
10 with the Freedom of Information Act and the  
11 Federal Advisory Committee Act and, if deemed  
12 appropriate, will redact such in-- redact or  
13 remove such information from the transcript  
14 that is posted on the public web site.  
15 All disclosures of information -- all  
16 disclosures of information concerning third  
17 parties will be redacted. And again, if you  
18 want to bring information, during this forum or  
19 in the next public comment period, to the Board  
20 but wish not to have your identity revealed,  
21 then please speak to me on a break. Thank you.

22           **DR. ZIEMER:** Let me be-- I'm going to take  
23 these speakers in the order that they've signed  
24 up. Let me ask if any of the speakers do not  
25 wish to have their names identified in the

1 public record.

2 **DR. BRANCHE:** If they signed up, they're  
3 agreeing to --

4 **DR. ZIEMER:** If you've signed up --

5 **DR. BRANCHE:** -- they're agreeing to have their  
6 name said.

7 **DR. ZIEMER:** Okay, by -- just so you know, by  
8 signing up here you agree that your name will  
9 be in the record, so -- giving you that  
10 opportunity if you change your mind on that.  
11 Okay, let's begin with John Ramspott. John,  
12 welcome, you may approach the mike.

13 **MR. RAMSPOTT:** Testing. I'd like to thank the  
14 radiation board and the other organizations and  
15 agencies that are here today. The General  
16 Steel Industries plant has been near and dear  
17 to my heart for the last two and a half years  
18 and -- since I first asked the question that --  
19 or made a statement that I'd like to find out  
20 what actually happened at that plant. I've  
21 done my best, and my wife of course has  
22 assisted me in gathering information, with the  
23 help of former site experts, family members --  
24 everybody we could, includes a couple of  
25 physicists who have assisted us, and of course



1 members of the Board. Just by giving me your -  
2 - I think courtesy and attendance and really  
3 following what we were trying to do, I believe  
4 we've really come to the crux of what happened  
5 at General Steel.

6 I know there's probably going to be some  
7 dispute and some questions and -- I understand  
8 that 'cause not everything's perfect in this  
9 world and this is a -- an older site with a  
10 unique situation. And being privy to some of  
11 the workgroup meetings via telephone conference  
12 and listening in and actually attending one  
13 today, I can see that this is definitely  
14 seriously being taken to heart and looked at.  
15 It's a very complex situation.

16 There are a couple of reasons I'm going to ask  
17 for urgency, though, that I think warrant a  
18 little special attention. The recent SC&A  
19 report actually mentions there are three sites  
20 still using these devices today. Two of them  
21 happen to be government military sites.

22 They're noted on the Internet. One's a public  
23 site, and I've actually visited that site,  
24 taken photographs. That's where the operator's  
25 manual came from. I don't think we can wait

1           too long to tell these people what's going on  
2           with those machines.  If we do, there's a  
3           problem with that.  If there's a real hazard  
4           and they don't know it and we don't tell them -  
5           - and I can tell you from the site I visited,  
6           they think that's like a jukebox, that's --  
7           that's safe, walk in, no cooling period.  It's  
8           like deja vu General Steel Industries all over.  
9           I have photographs.  I've talked to the people.  
10          They're nice, good, solid people.  I felt like  
11          I was right back at General Steel.  And I  
12          visited that site, too.  The new owner actually  
13          allowed us to go on site.  We now have some  
14          video footage of it.  And we've tried to share  
15          all that and we'll share anything else we have  
16          about that site.  But that's a real concern.  I  
17          think we need to move on this as soon as we  
18          can, as humanly possibly, complex as it is.  I  
19          totally appreciate that, but if there've been  
20          changes and those people know about it, maybe  
21          they ought to share them with us 'cause we'll  
22          find out what they were afraid of and they  
23          changed.

24          Now the other issue -- and this is -- I was  
25          listening today, and I'm not going to steal

1           anybody's thunder, but there was talk about  
2           radiation badges and -- I didn't hear anything  
3           about neutrons. And at that site -- and now if  
4           you read the SC&A report, there's -- there's  
5           definitely neutrons at General Steel. And I  
6           think they're manufactured in four ways, and  
7           they're spelled out, and I've confirmed it.  
8           The Betatron makes neutrons when it hits the --  
9           you're always trying to hit that little  
10          platinum target; it makes neutrons. And in the  
11          appendix we talk about a photoneutron  
12          activation of castings. When the big casting  
13          gets hit, that creates neutrons. When we hit  
14          the uranium with the 25-million volt Betatron  
15          beam, that makes neutrons. No one's denying  
16          that. And now one of the physicists is helping  
17          me, who is the -- actually it was [identifying  
18          information redacted] the gentleman -- the  
19          physicist who addressed this Board in  
20          Naperville via phone, his old boss, 35-year  
21          physicist, Milwaukee School of Engineering,  
22          explained to me how the fourth means of  
23          neutrons are created. When you make a neutron  
24          and that neutron impacts cement or concrete,  
25          now all of a sudden you start a chain reaction

1           and you get a whole lot more neutrons.  If I'm  
2           wrong, then there's a whole lot of articles  
3           I've been reading that are wrong, too.  
4           So these badges that we're talking about today,  
5           I don't think they measured neutrons.  I don't  
6           think the survey meters, which we now have a  
7           photograph of and now have the man that  
8           calibrated the survey meters -- that man was  
9           actually at a worker meeting with SC&A, he'll  
10          talk to anybody, tell you the same thing he  
11          told me, he sent it to me in an e-mail, those  
12          survey meters didn't measure any neutrons.  
13          They measured -- and they did use cesium  
14          whatever to calibrate those survey meters --  
15          they did beta and gamma above 50 keV to about 1  
16          million, or 1.3 million.  They didn't do  
17          anything for 25 million-volt -- 25 million  
18          volts.  So he said John, those survey meters  
19          were a waste of time for those guys.  So when  
20          they say they walked in there and they used a  
21          survey meter and they checked the casting,  
22          yeah, I guess you wouldn't get a reading if you  
23          didn't have the right tool.  So those castings  
24          are a lot hotter than those guys thought.  
25          So I hope those type of things, when we start

1 talking about the -- the badges and -- even at  
2 lunch today I quizzed the guys that were there.  
3 The production dates, they only had badges for  
4 -- what did I hear, '64 to '66? Well, the  
5 uranium was gone in '66 -- after '66, and it  
6 was winding down to '66. So try and use any  
7 information after '66 is a waste of time.  
8 There was no uranium there, and that's where a  
9 lot of the readings on badges would have come.  
10 And then the other thing the guy shared with me  
11 at lunch, and I didn't realize it, but they  
12 only wore the badges half the time. They wore  
13 them when they were in the Betatron. They  
14 weren't Betatron workers, they were NDT  
15 workers, mostly in the Betatron, but then they  
16 stepped on the other side of a ribbon door when  
17 they were needed while somebody else kept using  
18 the Betatron and they're in there working, in  
19 Building No. 10 or No. 9. Their badge  
20 information, if we did have it, would only be  
21 half good. So that's another concern about  
22 badges. And if we try to get to the bottom of  
23 this based on badges, we're wasting a lot of  
24 time.  
25 Now the -- the history that I've put together -

1           - and I think it was valid, tried to build a  
2           good case for everybody to be able to study.  
3           We did a workbook on the site, we gave public  
4           comments, we had numerous conference calls, we  
5           did outreach meetings, we -- and I tell you  
6           what, I do salute Larry. When you said one  
7           time you were going to have the Appendix BB, it  
8           was almost like hanging a target on your back.  
9           Now we had something to shoot at. And we  
10          didn't agree with it at first 'cause we wanted  
11          all the information out, then let's do an  
12          appendix. No, it got it out in the forefront  
13          so we really have something to look at now, and  
14          we do, and I thank you for it. I thank NIOSH  
15          for it. I wrote a critique. I said I think  
16          you're wrong. I don't think you got all the  
17          information. I got a reply and we got a little  
18          differences in there and I think we can work  
19          through them. I think they're real. And based  
20          on that critique and a lot of other  
21          information, now we have an SC&A report. And  
22          I'll tell you what, Dr. Anigstein and SC&A  
23          putting that report together, I think they  
24          really brought it to the forefront what was  
25          going on over there, what really happened. And

1           there's no sense in putting together a report  
2           like that unless you're going to do something  
3           with it.  And I know there's some fine edges  
4           that'll be discussed, and NIOSH and SC&A'll go  
5           back and forth -- and I hope we're part of that  
6           'cause now we've found new information that we  
7           want to present.  DOE has provided us with new  
8           photographs, big signs on the building which we  
9           read when we where there, said don't get within  
10          100 feet of this building.  So what's that  
11          company do?  They built another Betatron  
12          building, attached it to the main plant.  
13          That's within about 25 feet.  So some new  
14          photographs actually came out of DOE.  They  
15          have been helping as well, and we definitely  
16          thank them.

17          Now, the SC&A report -- we have it, still  
18          trying to understand it all, but now we're  
19          going to wait for NIOSH's reply and hopefully  
20          we can be part of that review -- would -- I --  
21          I know I'm not the Board, but I'd like to at  
22          least look at it, and if I see something and I  
23          can put together justifiable proof --  
24          photographs, testimony, whatever, scientific  
25          data -- I'd like to share it.  And if we can

1 all come to an agreement, I think we can get  
2 some people taken care of.  
3 And I've had a lot of these workers die  
4 recently. You know, it doesn't -- that's -- I  
5 heard a question, how many people -- I think  
6 Phil asked it, how many people die before they  
7 get paid or in the process. And one lady's so  
8 close -- I mean her husband died a long time  
9 ago and she's so close, and she just died about  
10 a month ago. Her husband was only there about  
11 30 years, so he's probably one of the guys  
12 that's going to get compensated. So I hope we  
13 can wrap this up in a timely manner. I'll do  
14 anything I can to help. We've got workers  
15 that'll help. If we all head in the same  
16 direction, I think it could be done.  
17 So if there are any questions -- and again, the  
18 -- the neutrons -- I hope I got this right, and  
19 SC&A can correct me, neutrons come from  
20 Betatrons, they come from interaction with  
21 casting, they come from Betatrons hitting  
22 uranium and neutrons then hit concrete and more  
23 neutrons are made. So we better look at  
24 neutrons. I don't think there's any mention of  
25 that.



1 I appreciate your time. If there are any  
2 questions, I've got a lot of data -- you guys  
3 know I'm a data guy. I've got manuals that's  
4 now being scanned. I'll have it for you in  
5 CD/DVD, we've got photographs -- I mean from  
6 when we visited. I'll give you anything I have  
7 that'll help you I hope make a comfortable  
8 decision.

9 **DR. ZIEMER:** Thank you, John. We appreciate  
10 all the input you've given to the Board and to  
11 NIOSH over this past year or two, so...  
12 Okay, let's proceed.

13 **DR. BRANCHE:** Clarissa.

14 **DR. ZIEMER:** Clarissa Eaton, is Clarissa here?  
15 Okay.

16 **MS. EATON:** I also just want to add an appre--  
17 my appreciativeness of you guys's hard work,  
18 and I hope that you always make a conscious  
19 decision for our Cold War veterans. I think we  
20 owe them more than what is even offered to  
21 them, and we are severely in debt to them. I  
22 am not a claimant, nor am I a beneficiary, but  
23 I am a citizen and these people deserve a lot  
24 more than what's being offered. And I hope you  
25 will use your position to make all remedies

1 available to them. And in any instance that  
2 you can expand the program and offer your  
3 expertise, because I know all of you are very  
4 educated and I'm thankful for that. And I  
5 would also like to add I -- I have recently  
6 submitted a petition for the Hematite site and  
7 that I hope you will give them the same  
8 consideration in the future. Thank you.

9 **DR. ZIEMER:** Okay, thank you very much.  
10 Then John -- John Dusko (sic) I think is --  
11 John, welcome.

12 **MR. DUTKO:** If I use --

13 **DR. ZIEMER:** That's fine. I'll give you a hand  
14 here.

15 (Pause)

16 John, spell your last name -- is it D-u-s-k-o?

17 **MR. DUTKO:** D-u-t-k-o.

18 **DR. ZIEMER:** --t-k-o.

19 **MR. DUTKO:** It's one of those.

20 I thank you for letting me speak, sir. I am  
21 privileged -- or one of the guys privileged the  
22 last -- since last October to have been working  
23 with Dr. Bob Anigstein in researching and in  
24 presenting evidence to SC&A. There's three  
25 more fellas here -- Ralph Hersing\*, George

1           Luber\*, Eddie Brawley -- all were operators,  
2           radiographers. They all knew their business.  
3           Of the nine guys that gave evidence, I'd like  
4           to point this out -- and I didn't run any in-  
5           depth study -- seven of those fellas had cancer  
6           of some type or other, either skin cancer,  
7           prostate cancer, kidney cancer, yet we've been  
8           regularly refused. Now they say we could --  
9           we can't get a in-depth body cancer from the  
10          radiation.

11          Well, us fellows laid on those castings to  
12          place it on, stood on it, crawled on them. We  
13          did about everything in the world, not  
14          realizing at that time -- and had no  
15          information that they were activated, along  
16          with the donut tube of the machine -- of the  
17          compensator.

18          I understand you're going to bring in the film  
19          badges. Please do. We didn't trust them then,  
20          sir, and we don't -- we won't trust them  
21          tomorrow. We wore dosimeters, pencil  
22          dosimeters as an instant reference, and trusted  
23          them quite a bit more.

24          The biggest part of our time, if we wor-- if we  
25          -- let's say we worked a shift in the Betatron,

1 we might work a second shift overtime in  
2 magnaflux. When we left -- when we left that  
3 Betatron, those film badges came off and went  
4 on the rack. Now what does that tell us about  
5 that beam coming down that railroad track  
6 through that ribbon door, and we're 20 feet  
7 away working on a tank all -- or a casting of  
8 some type, what does that tell us about our  
9 dosages from the film badges?

10 Again, I'm not trying to be a smart guy, but I  
11 see too many of my fellow workers died, sir,  
12 and there's quite a few of them not around  
13 anymore. Quite a few. It's -- it's not a  
14 laughing matter to us at all.

15 You know, last week one fella came down with  
16 prostate cancer and another fella I worked  
17 with, Tony Gast\*, prostate cancer again. All  
18 these were Betatron operators and NDT people at  
19 GSI. Just in short -- in the last couple of  
20 weeks, and it seems to keep -- to keep going.

21 And again, I have -- I apologize, I have run no  
22 in-depth study, but I think it's an indicator,  
23 sir -- it's an indicator. It should be looked  
24 into. I'm certainly not a doctor, nowhere near  
25 it. But too many of us people -- too many of

1 us people have come down with the big C.  
2 Simply neutrons is a dose introduced by Dr.  
3 Anigstein, and rightfully so. We operators,  
4 for the first time -- although given bounding  
5 doses, your so-called bounding doses by NIOSH,  
6 were the first time we saw doses, sir, in  
7 roentgens. In two and a half, three years of a  
8 short window of time that we had -- for  
9 instance -- for instance, with -- with a 10-  
10 roentgen dose that I had, in two and a half  
11 years window of time to three years, I wound up  
12 -- by my calculations, by his chart -- with 44-  
13 roentgen doses.

14 Now, sir, we fired shots three inches steel,  
15 nine feet double-A film, with 30 and 40  
16 roentgens. And experts tell me that we can't  
17 have a deep body cancer? I don't know, I'm not  
18 a doctor. I just want to point these things  
19 out.

20 But for the first time in 50 years we're  
21 starting to find out the truth about these  
22 machines, and it's no wonder I see a lot of my  
23 fellow workingmen not here anymore. And I  
24 thank you very much, sir.

25 **DR. ZIEMER:** John, thank you very much for your

1           comments.

2           Then we'll hear from Bill Hoppe -- Bill? And  
3           Bill is with Dow. Thank you, Bill.

4           **MR. HOPPE:** I thank you. I was looking through  
5           this here questionnaire deal like, and you put  
6           a lot of emphasis on what [identifying  
7           information redacted] says to say in the pot  
8           room they said that they brought the thorium in  
9           and they had it under armed guard the whole  
10          time, and I can't find anybody that worked in  
11          there at that time -- that was a little bit  
12          before my time -- that could verify that.

13          Also the way he's got the -- the pots and all  
14          that is completely wrong. The -- he said on  
15          the back wall there was a workbench. Where the  
16          workbench was supposed to be, that's where we  
17          had our instruments in that. He also said that  
18          they only -- you know, we was around the pots  
19          for a short period of time. They had to sit  
20          around the pots until they could alloy them.  
21          They might be around there for 15, 20, 30  
22          minutes at a time and couldn't get away from  
23          it, and all that fumes and that.

24          They also just checked the area out around  
25          seven press in the extrusion department and

1           they ran uranium on the seven press, which is  
2           the heavy press, and all around. They ran  
3           uranium in the rolling mill -- on the mills and  
4           everything else. You know, it's -- it's --  
5           there's a lot of confliction (sic) here that we  
6           can come up with.

7           I've been working on this for seven years, and  
8           we've been getting hold of the different  
9           people. And seems like every time someone else  
10          comes up with some other deal that puts  
11          different things together, and we've got a lot  
12          of things that comes -- you know, came together  
13          that Dow does not give out any information. So  
14          that's why I was wanting to make sure that that  
15          came up.

16         **DR. ZIEMER:** Okay, thank you. I want to ask --  
17         maybe I'll ask Larry. Do we have Bill's input  
18         on the Dow information or does someone have  
19         this information? Is it new information?

20         **MR. ELLIOTT:** I think he's speaking about the  
21         evaluation report that's going to be presented  
22         at this meeting, are you not?

23         **MR. HOPPE:** (Off microphone) (Unintelligible)

24         **MR. ELLIOTT:** And I don't know that we've had  
25         his particular input on that at this --

1           **DR. ZIEMER:** Okay --

2           **MR. ELLIOTT:** We're getting that now, so --

3           **DR. ZIEMER:** Well, okay. We -- we need to make  
4           sure that -- yeah.

5           **MR. ELLIOTT:** So we have had it --

6           **DR. ZIEMER:** Yeah.

7           **MR. ELLIOTT:** -- had some of this since June --  
8           some of it since June.

9           **MR. HOPPE:** (Off microphone) (Unintelligible)  
10          Silverstein's (unintelligible) came  
11          (unintelligible).

12          **DR. ZIEMER:** Okay, I just wanted to make sure  
13          that the information got inputted to the NIOSH  
14          folks. Thank you, Bill, for adding that.  
15          I need to check and see if there are any folks  
16          on the telephone lines that wish to make public  
17          comment. They would not of course had an  
18          opportunity to sign up. Anyone by phone that  
19          wishes to comment?

20          **UNIDENTIFIED:** Yes, I do.

21          **DR. ZIEMER:** And identify yourself, please, and  
22          --

23          **MS. KLEA:** Yes, I'm Yvonne Klea. I'm the  
24          author of Petition No. 93 for E-Tech, which is  
25          the Santa Susana Field Laboratory out here in



1 California.

2 **DR. ZIEMER:** Very good. Please proceed.

3 **MS. KLEA:** I just kind of have a question  
4 comment. In our site profile it mentions that  
5 background dose was subtracted from our dose.  
6 Now there's no mention up there in the site  
7 profile of where they got the background doses,  
8 what study they used, and every study that has  
9 been written for the facility has been  
10 questionable on where they picked up their  
11 background dose. And the Department of Energy,  
12 right now at this time, is working with the EPA  
13 to figure out an accept-- acceptable background  
14 dose. So I have a question about using a  
15 background dose to subtract from our estimated  
16 doses.

17 **DR. ZIEMER:** Okay. I think we probably can't  
18 answer that question today, but the NIOSH  
19 people here are aware of your question and they  
20 can follow up on that with you. So thank you  
21 very much for that input.

22 **MS. KLEA:** Yes, thank you.

23 **DR. ZIEMER:** Uh-huh. Is there anyone else on  
24 the line that wishes to comment?

25 (No response)

1                   Apparently not. The Chair's aware that Mr.  
2                   Stephan has joined the assembly and I never  
3                   want to pass up an opportunity to have you  
4                   comment if you wish to. He doesn't wish to.

5                   **MR. STEPHAN:** Tomorrow.

6                   **DR. ZIEMER:** He's going to comment on not  
7                   commenting, okay. Thank you.

8                   Let me ask if there's anyone else that didn't  
9                   get a chance to sign up but now has the courage  
10                  to -- I shouldn't put it that way. It's like,  
11                  you know, eating powdered milk biscuits; it  
12                  gives you the courage to get up and do what you  
13                  need to do. Right.

14                  If not, we are recessed until tomorrow morning.  
15                  Thank you very much for your participation  
16                  today.

17                  **DR. BRANCHE:** At 8:30.

18                  **DR. ZIEMER:** 8:30 tomorrow morning.

19                  **DR. BRANCHE:** We will close the telephone line  
20                  now, and at 4:45 reconvene for the Blockson --  
21                  for the Blockson workgroup meeting that will be  
22                  in this room. Thank you.

23                  (Whereupon, the meeting adjourned at 4:30 p.m.)

24

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**CERTIFICATE OF COURT REPORTER****STATE OF GEORGIA****COUNTY OF FULTON**

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of June 24, 2008; and it is a true and accurate transcript of the testimony captioned herein.

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

WITNESS my hand and official seal this the 24th day of July, 2008.

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