

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 the

WORKING GROUP MEETING

ADVISORY BOARD ON
RADIATION AND WORKER HEALTH

ROCKY FLATS

The verbatim transcript of the Working
Group Meeting of the Advisory Board on Radiation and
Worker Health held telephonically on March 17, 2008.

STEVEN RAY GREEN AND ASSOCIATES
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TRANSCRIPT LEGEND

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-- (sic) denotes an incorrect usage or pronunciation of a word which is transcribed in its original form as reported.

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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.

-- "^" denotes telephonic failure.

P A R T I C I P A N T S

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P R O C E E D I N G S

(11:00 a.m.)

1

2

WELCOME AND OPENING COMMENTSDR. CHRISTINE BRANCHE, DFO

3

DR. BRANCHE: For the record could we please have the Board members identify themselves for the record?

4

5

6

MR. GRIFFON: Mark Griffon, Board.

7

MR. PRESLEY: Robert Presley with the Board.

8

MR. GIBSON: Mike Gibson with the Board.

9

MS. MUNN: Wanda Munn, Board.

10

DR. BRANCHE: Are there any other Board members?

11

12

(no response)

13

DR. BRANCHE: We do not have a quorum of the Board so we're fine to get started.

14

15

Can I please have -- I'm Christine Branche. I am with the Office of the Director and the Principal Associate Director of NIOSH. And I am the Designated Federal Official for the Advisory Board.

16

17

18

19

20

If I could please have the other NIOSH staff please identify themselves and also please tell us if you have a conflict with

21

22

1 Rocky Flats.

2 **DR. WADE:** This is Lew Wade. I work for the
3 NIOSH Director, and I have no conflict.

4 **MR. ELLIOTT:** This is Larry Elliott, the
5 Director of OCAS, and I have no conflict on
6 Rocky Flats.

7 **DR. NETON:** Jim Neton at OCAS, no conflict.

8 **DR. ULSH:** Brant Ulsh with NIOSH OCAS, no
9 conflict.

10 **DR. BRANCHE:** Please have the staff of Oak
11 Ridge identify themselves and please say if
12 you have a conflict.

13 (no response)

14 **DR. BRANCHE:** Are there any Oak Ridge staff
15 on the line?

16 (no response)

17 **MR. ELLIOTT:** Any ORAU staff on the line?

18 (no response)

19 **DR. BRANCHE:** SC&A staff who are on the
20 call, and please identify yourselves and
21 please say if you have a conflict with Rocky
22 Flats.

23 **DR. MAURO:** This is John Mauro, SC&A, no
24 conflict.

25 **MR. FITZGERALD:** This is Joe Fitzgerald, no

1 conflict.

2 **DR. MAKHIJANI:** This is Arjun Makhijani, no
3 conflict.

4 **DR. BRANCHE:** Are there other federal agency
5 staff who would like, would you please
6 identify yourselves?

7 **MS. BOLLER:** Carolyn Boller with Congressman
8 Udall's office.

9 **DR. BRANCHE:** Yes, thank you.

10 **MR. BROEHM:** Jason Broehm, CDC Washington
11 office.

12 **MS. HOMOKI-TITUS:** Liz Homoki-Titus, HHS.

13 **MS. HOWELL:** Emily Howell, HHS.

14 **MS. BURGOS:** Zaida Burgos.

15 **DR. BRANCHE:** Are there any other federal
16 government staff? Would you please identify
17 yourselves?

18 (no response)

19 **DR. BRANCHE:** Are there any petitioners or
20 other representatives on the line?

21 **MS. BARRIE:** This is Terrie Barrie with
22 ANWAG.

23 **DR. BRANCHE:** Are there any workers or their
24 representatives who are on the line, please?

25 (no response)

1 **DR. BRANCHE:** Are there any other members of
2 Congress or their representatives who would
3 like to identify themselves?

4 (no response)

5 **DR. BRANCHE:** Are there others who would
6 like to mention their names for the record?

7 (no response)

8 **DR. BRANCHE:** Thank you. Before we get
9 started I would ask that if you are, since we
10 are all participating by phone, I ask that you
11 please mute your phones unless you're
12 speaking. If you do not have a mute button,
13 then please dial star six to mute your line.
14 And then you would use the same star six to
15 unmute your line when you're ready to speak.
16 It's important that all of us on, use the mute
17 button because the transcriber needs to be
18 able to hear clearly, and we all need to be
19 able to hear each other. So I thank you for
20 your cooperation.

21 Mr. Griffon.

22 **INTRODUCTION BY CHAIR**

23 **MR. GRIFFON:** I think everyone in the work
24 group at least received the, I sent around
25 some materials, two items, mainly the minutes

1 from a previous technical call that we had had
2 and a DOL bulletin which speaks to the
3 question of the implementation of the SEC
4 class for Rocky Flats. And I think -- did
5 everyone receive those items?

6 **MS. MUNN:** Yes, we did. I'd like for you to
7 identify more clearly the first, the numbering
8 of the first one of those bulletin items,
9 Mark. I wasn't sure Bulletin 08-OX was the
10 December 8th not complete. I wasn't sure --

11 **MR. GRIFFON:** Right. I think the 08-14 is
12 further back in that document. So it looks
13 like there's two memos in that document I sent
14 actually.

15 **MS. MUNN:** And the first one didn't have
16 numbers --

17 **MR. GRIFFON:** Right, and it's the same way
18 with my copy.

19 **MS. MUNN:** So I don't know what it is.

20 **MR. GRIFFON:** Right, I'm not sure what
21 version that is either. But anyway, the 08-14
22 I think is at a later date than that.

23 **MS. MUNN:** That's clear enough.

24 **MR. GRIFFON:** So if we need clarification on
25 that we can ask DOL or NIOSH is probably

1 familiar with this, too.

2 **IMPLEMENTATION OF THE SEC CLASS FOR ROCKY FLATS**

3 I guess the main intent here as far as
4 an agenda, I didn't really send an agenda out,
5 but it's just discussing these two items. And
6 I'm really, my feeling is what the importance
7 of these two items is on the implementation of
8 the class and of our recommendation rather
9 than we're not really, I mean, my intent here
10 is not to in any way try to re-open the
11 petition, but rather just to clarify how it's
12 being implemented. And so with that in mind I
13 can first give a report.

14 **TECHNICAL CALL**

15 We had a technical call, and I believe
16 it was back in December. And on the call was
17 myself, Larry Elliott from NIOSH and Brant
18 Ulsh from NIOSH and Margaret Ruttenber. And
19 we asked at that time to have a discussion
20 with Margaret -- just to remind everyone, to
21 refresh everyone's memories on this issue.

22 Because this information from
23 University of Colorado database was used in a
24 newspaper article, and was questioning the
25 issues of other neutron buildings. And I

1 think the main point that came out of our
2 discussion with Margaret Ruttenber, and I
3 think that's highlighted in the minutes, was
4 that her analysis of this data showed more
5 that the question of whether someone who was
6 assigned to another building had neutron dose
7 in their records.

8 So their work history would show a
9 building that may or may not, and it may not
10 have any neutron exposures at all in that
11 building, but they could have been sent out to
12 work in other areas where there was plutonium
13 or where there was a potential for neutron
14 exposures. And by looking at their work
15 history you wouldn't necessarily show those
16 buildings in their work history.

17 And that was what she was trying to
18 point out with that analysis that the fact
19 that you had several. And I think looking at
20 the list of buildings someone would say, well,
21 pretty clearly some of them are not, or it's
22 very unlikely that they had neutron exposures.
23 But that wasn't the point.

24 It was that someone that was assigned
25 to those buildings ended up with neutron doses

1 in their records, and then the question before
2 us, I guess, is, well, what if someone was
3 assigned to, say, the maintenance building but
4 sent out on a job that was not, you know,
5 these are the people that actually got badged
6 when they went to another area to do work and
7 where they could have encountered neutron
8 exposures. But could it have happened that
9 they were sent out to these other jobs and not
10 monitored, and then we wouldn't have a record
11 of them working in these other buildings, but
12 they could have received neutron exposures?

13 So I guess that's sort of what's
14 raised here is that question. And, Larry or
15 Brant, I mean, do you have any other, I know
16 at this point, Larry, I think I saw some
17 correspondence between you and Margaret that
18 the University of Colorado has agreed to share
19 their data with NIOSH as well. Is that true?

20 **MR. ELLIOTT:** This is Larry Elliott. Yes,
21 that is correct, Mark. Let me just give a
22 little background for everybody that's on this
23 call. In the '90s NIOSH took on the
24 responsibility of conducting epidemiologic
25 studies at the various weapons, nuclear

1 weapons plant sites around the country. And
2 Rocky Flats was, of course, one of the sites
3 that NIOSH wanted to study very badly.

4 And they entered into what is called a
5 cooperative agreement with Colorado Department
6 of Health and the University of Colorado with
7 James Ruttenber and Associates being the
8 principal investigators on that cooperative
9 agreement to study the Rocky Flats' workers
10 cancer experience. And they were specifically
11 looking at not only plutonium exposures, but
12 also other radioactive material exposures and
13 chemical exposures.

14 And so we, because of that history,
15 we're familiar with the study design and the
16 protocol that was put together and the conduct
17 of that study, the results that we reported
18 from that study. And during the SEC
19 evaluation period, Brant Ulsh went out to
20 Colorado and visited there and examined the
21 contents of the study's data files and talked
22 about their utility in dose reconstruction
23 with Dr. Ruttenber. And I believe Brant's
24 determination upon return that we had
25 everything that Dr. Ruttenber had, perhaps we

1 had more in some ways, some instances.

2 And so, yes, I think, Mark, the
3 question you raise, were there people that
4 were operating out of one building and
5 assigned to go work in another building, were
6 they badged or were they not badged? I think
7 our position is that the documentation -- and
8 Brant can fill in here for me where I may
9 leave a gap would be an opening that I can't
10 fill -- but it's our opinion and understanding
11 that these are radiological-controlled areas
12 and if a mechanic or some other worker or a
13 control process clerk that had to go into one
14 of these areas would have had to go in under
15 the administrative requirements of a
16 radiological-controlled area and would have
17 been badged.

18 **DOL BULLETIN**

19 We also think that the NDRP covers all
20 of these people and that is actually the first
21 criterion in DOL's technical bulletin. If
22 they're in the NDRP list, then they're in the
23 SEC class. But buildings don't really come to
24 bear here until you have to go to the third
25 level of criteria used by DOL to discern

1 whether or not an individual should be in the
2 class.

3 So we also teased apart the 19 or so
4 buildings that are reported in the press as
5 being neutron-related or plutonium-related.
6 And we don't find that to be the case. The
7 one document that has been prepared for the
8 working group by Brant lists those buildings
9 and their descriptions and where the source of
10 that building description is.

11 And so we would say that the class is
12 fairly well defined by the existence of the
13 NDRP data and people that were enrolled in
14 that neutron dose re-read project. And that
15 these buildings that are reported in the
16 popular press out there have no bearing per se
17 on class eligibility for this class.

18 **MR. GRIFFON:** And being on the phone call I
19 think, Larry, and I'm glad that University of
20 Colorado seems to be willing to share their
21 database, but I think even from what I heard
22 it seemed like Margaret was saying that we're
23 working with the same original data that they
24 may have modified it or rearranged it in
25 certain ways so they could better use it for

1 their study purposes, but that the data was,
2 the underlying data was the same data that we
3 were working from.

4 I suppose you can confirm that when
5 you get your hands on it. But I tend to agree
6 that that's probably not the primary issue
7 here. The issue that I would have is if we
8 agree, and if we had assurance that these
9 workers in these other buildings any time they
10 were dispatched to work in neutron areas as,
11 as you said, that they were rad-controlled
12 areas and they were badged when they went in,
13 and therefore would be in the NDRP then I
14 think there wouldn't be much to discuss here.

15 I think the problem that arises is
16 that in our recommendations one of the bases
17 we have for this whole SEC period is that we
18 show based on the evidence we reviewed, at
19 least the Board's opinion was that not all
20 workers were monitored. In fact, not even the
21 highest exposed neutron workers were monitored
22 during this time period.

23 So if we have concerns about evidence
24 that all workers were monitored, then that
25 would raise that question I guess is where

1 I'm, the way I'm looking at this right now.
2 So I tend to agree with you what the building
3 was. It's not so much a building issue. It's
4 this question of people working in certain
5 buildings that were reassigned to other areas
6 where they would have received neutron
7 exposures. So that's the discussion on the
8 table.

9 **MS. BOLLER:** This is Carolyn Boller with
10 Congressman Udall's office. I just want to
11 make sure, I mean, we can do a lot of talking
12 here, but wasn't the SEC approved because
13 NIOSH's recommendation was that they could not
14 prove that everybody was monitored, and they
15 didn't have enough records to complete that
16 work?

17 **MR. ELLIOTT:** No, no, this is Larry Elliott.
18 That's not the case. NIOSH's position was
19 that we could reconstruct dose with sufficient
20 accuracy to bound all doses for this class.
21 The Board in its deliberations determined that
22 they didn't agree with that, and as Mark says
23 --

24 **MR. GRIFFON:** Right, that was the Board's
25 recommendation, not NIOSH's.

1 **MS. BOLLER:** Okay, sorry. I apologize. So
2 the Board then made a decision that you should
3 have been or you were or you should have been
4 monitored, and you can't determine if some of
5 these people were or were not. So what's the
6 issue?

7 **MR. GRIFFON:** The question is that we put --
8 and part of the reason I'm following up on
9 this with the work group process is that we
10 added that language in the recommendation, and
11 I'm pretty sure I said on the record at the
12 time that we would rather be more specific
13 with this, but given our knowledge of the site
14 and the monitoring program, we had to be a
15 little broader with our language because we
16 didn't want to exclude anybody that should be,
17 that met the criteria. So we used language
18 which we have used in the past which was all
19 workers who were monitored or should have been
20 monitored for neutron exposures during the
21 time period in question, et cetera.

22 Now I guess the follow up that we've
23 seen here is just questioning who does that
24 exactly encompass, and that's the discussion
25 on the table is if, again, this is my read on

1 this, and I think it's in line with the
2 Board's previous recommendation is that we
3 believed, based on our review of all the data
4 at the time when we made this decision, and
5 it's in our SEC recommendation, we believe
6 that the records didn't adequately demonstrate
7 or prove that all workers were monitored for
8 neutron exposures.

9 So if you follow up on that and say,
10 well, here we've got some people in other
11 buildings that have neutron exposures
12 recorded, how do we know that all the people
13 that were sent to other buildings are actually
14 monitored.

15 **DR. ULSH:** Okay, Mark, this is Brant Ulsh.
16 My reading of the Board's deliberations and
17 recommendations on this issue are a little bit
18 different. It's my understanding that the
19 Board recommended an SEC because they were not
20 confident in the methodology that the NDRP
21 used to assign notional dose or unmonitored
22 dose. But the Board in my recollection never
23 weighed in explicitly on whether or not
24 everybody who should have been monitored was
25 captured in the NDRP. That's a totally

1 separate issue, and I think it's worth
2 repeating here.

3 Let's keep in mind that the evidence
4 that has been presented in support of the
5 position that there are people missing
6 doesn't, in fact, support that position
7 because the only way to look at the source
8 data, that is the data that is the source of
9 both the NDRP and Dr. Rутtenber's studies is
10 the same source. The only way to conclude
11 that is to identify people who have neutron
12 monitoring who were not officially assigned to
13 a plutonium building.

14 By definition those people are already
15 in the class so the evidence that has been
16 provided does not support that position. Now
17 just because that evidence doesn't support the
18 position doesn't mean that it didn't, in fact,
19 happen. All I'm saying is no evidence has
20 been presented --

21 **MR. GRIFFON:** Yes, that's a self-fulfilling
22 argument. I mean, if they're in the NDRP, we
23 know it's going to support your argument.

24 **DR. ULSH:** Well, exactly, Mark, but that's
25 exactly the point. No evidence has been

1 presented that there are people who are not in
2 the class who should be. In fact, the
3 evidence that's available indicates that
4 people who were assigned to these other 19
5 buildings, in fact, were issued neutron
6 dosimetry and are in the class.

7 **MR. GRIFFON:** Well, I'm not sure we've
8 examined that question, but the question, I
9 mean, my memory on the Board's deliberations I
10 think is you're right in one sense, Brant,
11 that we were, our main point was that because
12 we were looking at whether the dose could be
13 bounded, we were focusing on the highest
14 exposed and the notional dose.

15 But I also remember that we did have
16 discussions with Roger Falk, and he said that
17 it wasn't 'til a later timeframe when all
18 workers were monitored for neutron exposures.
19 And he was pretty sure that kicked in around
20 '67. It looked -- and this is based on my
21 memory of this -- but I do remember those
22 discussions occurring that Roger felt pretty
23 strongly that by '67 or so all workers were
24 monitored.

25 So we were focused on the highest

1 exposed and whether we could bound those
2 doses. That is true. But I think we also did
3 discuss the fact that it was pretty apparent,
4 at least to me looking at those records, that
5 not all workers were included.

6 Then we never really examined whether
7 people assigned to other buildings, would they
8 have been, you know, I don't know even if we
9 have data to examine that because the work
10 histories don't show them going to other
11 buildings.

12 **DR. ULSH:** Yeah, but Roger indicated that
13 those people -- you're right, Mark. There
14 were people who did not receive neutron
15 dosimetry, but Roger was talking about the
16 pool of people that are in the NDRP. There
17 are certainly people who have breaks or gaps
18 in neutron dosimetry that are already included
19 in the NDRP and assigned notional dose.

20 **MR. GRIFFON:** Right.

21 **DR. ULSH:** That's what he was talking about.

22 **MR. GRIFFON:** Okay, perhaps that is, but, so
23 if there are workers in those buildings that
24 were working but not assigned neutron
25 dosimetry, but we're sure that anyone else who

1 was in an external area, anytime they got sent
2 there was assigned neutron dosimetry? I mean,
3 that seems like a little, it doesn't seem
4 logical to me that that would be the case.

5 **DR. ULSH:** You're adopting a criterion here
6 that may not be appropriate. It's not that if
7 you just set foot in Building 771, you'll
8 automatically have neutron exposure potential.
9 I mean, there were certainly administrative
10 areas in that building where if I just
11 delivered a letter to that building that
12 doesn't mean I had neutron exposure potential.

13 **MR. GRIFFON:** I agree.

14 **DR. ULSH:** Places where you would get
15 significant neutron exposure potential are
16 spending a significant amount of time in front
17 of one of the glovebox lines or around the
18 fluoronator, but not just access those areas
19 of the building without being monitored.

20 **MR. GRIFFON:** But those workers with gaps in
21 their data that were assigned to those
22 buildings you're just saying that the reason
23 for those gaps is --

24 **DR. ULSH:** You're correct that over time the
25 monitoring policies did change, and that's why

1 NDRP didn't just simply reevaluate assigned
2 neutron doses, but rather they went back and
3 assigned gap doses. And it's worth mentioning
4 the NDRP took a very liberal, very -- I don't
5 know. I hate to use the word claimant
6 favorable any more, but very generous view of
7 assigning notional doses.

8 In other words, if you had
9 intermittent exposure to neutrons, they went
10 ahead and filled in the gaps even though it
11 wasn't demonstrated that you had spent actual
12 time in those controlled areas. But they were
13 trying to take the most generous dose
14 assignment policies.

15 **MS. MUNN:** This is Wanda. Correct me if I'm
16 wrong. Isn't the mere fact that they appear
17 in the NDRP adequate for the SEC? Haven't we
18 established that again and again?

19 **DR. ULSH:** Well, Wanda, if they are in the
20 NDRP, that's one of the criteria that DOL uses
21 to place people in the class.

22 **MS. MUNN:** Then they're there, and so
23 whether they have gaps or not is --

24 **MR. ELLIOTT:** Well, then the 250-day thing
25 comes to bear, Wanda, where the DOL has to

1 total up 250 days of exposure in those
2 buildings.

3 **MS. MUNN:** And so that's basically the
4 argument that Mark is making here?

5 Is that right, Mark? Your argument --

6 **MR. GRIFFON:** No, I don't care about it.

7 **MS. MUNN:** -- 250-day issue here?

8 **MR. GRIFFON:** Not so much. I mean, that's
9 another issue, but my issue is that I'm still
10 not convinced that just because they're not in
11 the NDRP database doesn't mean they couldn't
12 have been -- here's the example and the data
13 from the newspaper article.

14 You have an individual that's in the
15 maintenance building, I forget the number.
16 They're sent to one of the plutonium
17 buildings, and if Brant's correct, then all
18 the rad-controls kick into place. They can't
19 enter the area without being badged. I would
20 certainly agree that that happened after a
21 certain time period, but I question whether it
22 was as effective in the earlier years.

23 **DR. ULSH:** The argument that I'm making,
24 Mark, is if that newspaper article concluded
25 that there was a maintenance person who got

1 neutron exposures, the only way that they
2 could make that conclusion using the data that
3 they used --

4 **MR. GRIFFON:** Right, is if they got it from
5 the NDRP, right. But then what about the
6 other maintenance worker in the same building
7 that wasn't in the NDRP?

8 **DR. ULSH:** Well, do you have evidence that -
9 -

10 **MR. GRIFFON:** No, no, but I'm saying the
11 logic of this is that you have all these
12 production workers that had all these gaps in
13 their data, and your argument is that, well,
14 that's because they were working in the
15 production that one day they were being
16 conservative by adding a notional dose. I'm
17 not sure I buy that.

18 But then you have these maintenance
19 workers, and we're supposed to expect that a
20 hundred percent of the time that when they
21 entered those areas, they were given a badge
22 even though the production workers have large
23 gaps in their data in the '52 through '66 time
24 period. That's the problem. That to me seems
25 a little illogical.

1 **MR. SHARFI:** This is Mutty Sharfi. You
2 didn't have to be badged for neutron back in
3 the '60s to be in the NDRP study. All you had
4 to do is be badged by gamma badge. NDRP then
5 took your gamma, and then it calculated a
6 neutron dose. But the fact that everybody
7 wasn't badged, neutron isn't the issue.
8 Whether they're badged for gamma and entered a
9 neutron facility is whether they were put into
10 the study.

11 **MR. GRIFFON:** All right, and then how did
12 they determine whether they entered the
13 neutron facilities? Their work history,
14 right?

15 **MR. SHARFI:** Correct.

16 **MR. GRIFFON:** Right, so then you're back to
17 these guys who are assigned to the maintenance
18 building but went in those buildings. How do
19 you handle those? I mean, that maintenance
20 building I'm assuming had no neutron
21 exposures. I looked through the work history
22 cards I say, oh, they're in that building.
23 I'm not going to assign them any notional dose
24 to neutrons. Why would I?

25 **DR. ULSH:** Right, but when they went into

1 the current buildings, and we're talking about
2 the ones that are listed in the NDRP, if they
3 didn't already have gamma dosimetry, beta-
4 gamma dosimetry, and they were going to spend
5 an appreciable amount of time there -- like,
6 for instance, someone who worked in Building
7 44 and went to work an overtime shift in
8 Building 771. If they didn't already have a
9 dosimetry, they were assigned dosimetry, beta-
10 gamma dosimetry.

11 **MR. GRIFFON:** Right.

12 **DR. ULSH:** That was the trigger for
13 including them in the NDRP. Now not everyone
14 who's in the NDRP had neutron dosimetry
15 assigned to them. That is certainly true.
16 Those are the people who were assigned
17 notional doses, but they're already in the
18 NDRP.

19 **MR. GRIFFON:** I guess my feeling again is,
20 you know, we need to maybe look back at the
21 arguments we laid out for this, but if you
22 have production workers in those buildings
23 that had quite significant gaps, and my memory
24 is that that was part of our argument anyway,
25 not totally because we were worried about

1 bounding doses really. But part of the
2 argument was that it wasn't clear that all
3 people in those buildings were monitored for
4 neutrons all the time.

5 But if they had gaps in their data,
6 then why should I believe that any people
7 assigned to other buildings, you know, they
8 always captured them. I guess that's the
9 question is, sure, you got a few because
10 they're showing up in the NDRP. But did we
11 get everyone that worked over there? And, no,
12 I don't have any specific evidence right here
13 on this phone call about a case where it
14 didn't happen.

15 But I guess the question we have to
16 deal with also is this benefit of the doubt to
17 the petitioning class. We need to, I mean, we
18 also have survivors that are, that have
19 claims, and if their work history shows, I'll
20 go back to that maintenance building example
21 because it's the easiest one to explain.

22 If their work history shows that
23 maintenance building, then who's to say
24 whether they worked in one of the plutonium
25 buildings or not if the person is deceased?

1 So there wouldn't be anything on their
2 interview records, nothing like that, and
3 unless they got captured in the NDRP, you
4 know, I guess your argument, Brant, is that
5 that system at that time was a hundred percent
6 effective.

7 **DR. ULSH:** No, I wouldn't make that argument
8 about any human ^.

9 **MR. GRIFFON:** You know, I mean, it was an
10 effective system.

11 **DR. ULSH:** Exactly, within the limits of
12 human error, but, yes, the NDRP was designed
13 to capture not only the people with
14 significant neutron exposures, but to be
15 generous and capture, in an effort to not miss
16 anybody, the larger pool even if they didn't
17 have significant neutron exposure. And what
18 we're arguing about here, what we're
19 discussing here is whether or not we should
20 include an even bigger pool without any
21 evidence that there's any people who have been
22 missed. That's my point.

23 **DR. MAKHIJANI:** I don't know whether this
24 might help confuse things more, but this is
25 Arjun. I just wanted to call attention to

1 page 60 of our April 5th, 2007 report in which
2 document that somebody was assigned to
3 Building 444 but this could be germane to the
4 kind of situation that you are discussing,
5 Brant.

6 **MR. GRIFFON:** Can you describe that, Arjun,
7 since most people probably don't have that.

8 **DR. MAKHIJANI:** Had spent time in plutonium
9 areas, now this person was based in Building
10 444 and had recorded deep dose by '67, ^ based
11 on ^. It's my impression that people recorded
12 deep dose in Building 444 were not in the
13 NDRP, but I do not know whether this person
14 particularly was in the NDRP because I haven't
15 looked.

16 But he was involved in the fire clean
17 up and so he may have been in the NDRP as far
18 as that, but I do not know that. I have not
19 looked. But this may be a potential case that
20 you might want to examine to see if he was in
21 the NDRP, and there might be a few others, and
22 make an empirical test of this argument.

23 **DR. ULSH:** I agree, Arjun, that there are
24 certainly people -- I don't have your report
25 in front of me so I don't know about this

1 particular individual. I mean, we'll agree
2 that there are people who were based in other
3 buildings, for instance, 44, who on occasion
4 did go work on a temporary basis in the
5 plutonium buildings.

6 And I guess probably that's most
7 likely the source of these other 19 buildings
8 that Margaret has talked about. The case that
9 you described could very well be a case that's
10 someone who was based in Building 44 did some
11 work in a plutonium building and should
12 already be in the NDRP. Should be.

13 **MR. GRIFFON:** And if they're not, you would
14 assume the CATI was wrong?

15 **DR. ULSH:** I would have to look at the
16 details. I mean, if we have evidence that
17 they did work and had neutron exposure
18 potential in those buildings, then they should
19 be in the NDRP.

20 **MR. GRIFFON:** Well, that's the problem with
21 survivor claims and things like that, you're
22 going to go on the work history or the NDRP.
23 That's it, you know?

24 **DR. MAKHIJANI:** Mark, I just want to provide
25 some, a little bit of clarification here.

1 **MR. GRIFFON:** Yeah, sure.

2 **DR. MAKHIJANI:** The NDRP considerably pre-
3 dated any CATI issue. When the NDRP was
4 constructed in the 1990s there would not have
5 been any interviews with workers. They may
6 have contacted workers to interview them as
7 part of the NDRP, but that would have nothing
8 to do with ^.

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

10 **DR. ULSH:** And, Mark, it should also be
11 pointed out as well this contributes. It
12 probably doesn't entirely answer the question.
13 I mean, it's always possible for a DOL to take
14 by affidavit in a statement that, hey, I was
15 in the building. But, of course, I know where
16 you're headed. If it's a survivor claim, then
17 it's probably not too likely.

18 **DR. MAKHIJANI:** Just as a further point of
19 clarification ^ individual record in some
20 detail and put it in the report because as
21 part of our completeness investigation of
22 1969, he was taken off the list of people
23 whose badges were to be read. And this wasn't
24 one of those cases where were put through the
25 raw records, you know, indicating that the

1 badge was, and there were indications that the
2 badge had not been read. And so, but that was
3 in the period that happened after the SEC cut-
4 off.

5 **MR. GRIFFON:** Yeah, '69, '70, yeah.

6 **DR. MAKHIJANI:** The earlier years he did
7 have gamma dose above the ten percent.

8 **DR. ULSH:** If you'd like, I mean, if
9 somebody can send me over the name of that
10 particular individual, obviously, we don't
11 want to say it here.

12 **DR. MAKHIJANI:** I don't have the name handy,
13 but I can try to get it.

14 **DR. ULSH:** Yeah, if you want to send it
15 over, I can let you know whether or not it's
16 in the NDRP.

17 **DR. MAKHIJANI:** Okay. I will try to get it.

18 **MR. GRIFFON:** So that's really, that's the
19 crux of this call and the, I'm not sure what
20 action we as a work group or the Board need to
21 take. I mean, I think --

22 **MS. HOMOKI-TITUS:** Hey, Mark, I'm sorry.
23 This is Liz Homoki-Titus. This may be a good
24 point for me to step in because that's one of
25 the concerns that we've had since there's no

1 SEC pending before NIOSH or the Board. I
2 think the most that the Board could do is send
3 a recommendation to the Secretary that there
4 are concerns along this line. And I know in
5 the past that you've sent recommendations to
6 the Secretary recommending that the Secretary
7 get in touch with DOL regarding how they're
8 implementing their class. But maybe possibly
9 you want a presentation from DOL to the Board
10 on how they're implementing their class. But
11 the Board does not advise DOL --

12 **MR. GRIFFON:** No, correct.

13 **MS. HOMOKI-TITUS:** -- so you're really kind
14 of stepping outside of your bounds by
15 investigating how they're implementing a class
16 versus kind of making a recommendation to the
17 Secretary that there is a concern here. And
18 then it would be up to HHS, you know, if it's
19 appropriate, there could be an 8314 or maybe
20 another SEC petition comes in.

21 **MR. GRIFFON:** Yeah, that's fine. We
22 wouldn't be -- I agree, Liz. We're not
23 recommending anything to DOL. I mean, that's
24 out of our purview, but I think we could, but
25 I wouldn't want to recommend anything to HHS

1 until we had a little more --

2 **MS. HOMOKI-TITUS:** Well, you want to be sure
3 about what you're recommending.

4 **MR. GRIFFON:** Exactly. A little more
5 clarification. So we may need to investigate
6 a little further ourselves before we recommend
7 anything. I mean, part of what I would be
8 looking for is, is there, further looking at
9 this question of do we have any concrete
10 examples as Brant just talked about.

11 Are there, is where people were
12 assigned to this building but I went to those
13 other areas. I don't know if we're ever going
14 to conclude anything on that either because
15 then people could also argue that, well, yeah,
16 they went to another area, but they weren't in
17 a neutron area. And we could just spin our
18 wheels on that one as well.

19 But anyway, I think we need a little
20 more clarification amongst ourselves as a work
21 group and then the Board before we'd be in any
22 position to write a letter. And even if we do
23 recommend anything, it's to the Secretary to
24 perhaps, not to DOL at all, of course.

25 **MS. MUNN:** This is Wanda. And I'll have to

1 be perfectly frank. I don't believe I've
2 heard anything this morning that we haven't
3 discussed before. I don't believe we will
4 ever reach a point where there will not be
5 someone who is willing to and able to question
6 any findings that any of us have made. The
7 Board, in my opinion, was generous in its
8 attention to detail with this group of
9 claimants and with this SEC petition.

10 We looked at it, as you know, you led
11 us through extremely great detail and through
12 a number of individual cases. I do believe
13 everyone involved recognizes that there is
14 never going to be perfect information on
15 anything that transpired 50 years ago. We all
16 recognize that. But the thorough job that has
17 been done is a very thorough job. We haven't
18 slacked off here. The group hasn't slacked
19 off in any way, and certainly, the Board
20 hasn't slacked off.

21 **MR. GRIFFON:** I'm not saying we slacked off.
22 I'm just trying to get it right. And when we
23 use this language, we said in the meeting that
24 we'd rather have much more specific, but at
25 this time there's no way we could. And this

1 monitored or should have been monitored
2 question is what's at hand here, Wanda.

3 And I, I mean, the indication here, if
4 I look at the bulletin, you know, when DOL is,
5 and the other issue here is the 100 millirem
6 monitors should have been monitored based on
7 the standards of today, which is 100 millirem
8 kind of criteria. But DOL is looking back at
9 the dose reconstruction to see if 100
10 millirems was assigned by NIOSH. So they're
11 in no way looking at where an individual
12 worked in that sense. I know there's three
13 different levels of criteria, but looking at
14 the NDRP is one thing.

15 I don't think anybody slacked off, but
16 I'm just saying that we, is there, and we're
17 probably never going to get it perfect, but
18 I've heard from DOL again and again, you know,
19 with this kind of language in our
20 recommendation, they will err on the side of
21 claimant favorability. If they can't place a
22 person outside of a neutron exposure area,
23 then they would just assume, you know.

24 So I think that's what I'm trying to
25 clarify is what about this example I just

1 that stuff. But I can see where a monitored
2 worker would have been monitored maybe for a
3 week's run or two week's run and then they
4 were assigned another operation for two or
5 three weeks before they started back on it.
6 As a worker I can see that. I've been there.

7 **MR. GRIFFON:** That could be true. I mean,
8 part of what I'm basing this on is what Roger
9 said, which I thought was, and maybe I have to
10 review what we went through myself, but I
11 thought he said that not all the workers,
12 until '67 or so, not, you know, beyond that
13 then you look at the records, and you see that
14 everyone had direct neutron measurements in
15 their files or a much higher percentage. And
16 before that you had a lot of gaps where they
17 included notional doses.

18 So that was the question. If you had
19 all those gaps -- I know what you're saying.
20 They could have shifted to other areas, and
21 that could be the reason for the gaps. But I
22 just, I didn't get that sense from what Roger
23 was saying, but maybe, you know, I would
24 certainly agree to review those transcripts
25 and the facts as we know them before going any

1 further. But I just at least wanted to bring
2 everyone up to speed on this issue, and maybe
3 we need to bring it before the full Board in
4 April.

5 **MS. MUNN:** And say what?

6 **MR. GRIFFON:** Well, I don't know that we
7 have a conclusion right now, but at least --

8 **DR. BRANCHE:** This is Christine. You'll
9 have an opportunity in the work group updates
10 to do that very thing.

11 **MR. GRIFFON:** Yeah.

12 **MS. MUNN:** However --

13 **DR. BRANCHE:** If you think it's important.

14 **MR. GRIFFON:** Right.

15 **MS. MUNN:** -- is there still the question of
16 what?

17 **MR. GRIFFON:** The question of whether people
18 that weren't assigned to neutron buildings
19 actually went in there and could have got, and
20 could have received a 100 millirem exposure.

21 **MS. MUNN:** The point I'm trying to make,
22 Mark, is that either way it's speculation.
23 Whether you speculate that this occurred as
24 has been alleged or whether you take the
25 position that all of the people that we

1 possibly could identify have been identified
2 and have been given notional doses even if
3 they did not receive any doses, we're not
4 going to turn up any more evidentiary
5 material.

6 **MR. GRIFFON:** So, okay, that's a good point,
7 Wanda. So then what we heard from DOL is that
8 in the absence of evidence they would err on
9 the side of the claimant.

10 **MS. MUNN:** Yes.

11 **MR. GRIFFON:** So there you go. So your
12 evidence is that some maintenance workers
13 according to Ruttenber's analysis were sent
14 from their maintenance building even though
15 that's their building in their work history.
16 They did work in the other area. They got a
17 neutron dose. The real question is, are we
18 sure that all those people, that they did that
19 for all those people. If we can't prove
20 either way, then shouldn't we say unless you
21 can prove that they did not, you have to
22 include them? That's the question for me.

23 **DR. ULSH:** I understand, Mark, and I think
24 it might be reasonable to ask that question.
25 But you can't use Ruttenber's data to support

1 that because Ruttenger's data doesn't say one
2 way or the other. What Ruttenger's data
3 showed is that there are some people who were
4 assigned in other places. They got neutron
5 dosimetry when they went to those buildings.
6 That's what --

7 **MR. GRIFFON:** But it at least shows that
8 practice that people were assigned to other
9 buildings and did neutron work. That's all
10 I'm --

11 **DR. ULSH:** It's not informative about a
12 speculative question about are there other
13 people who --

14 **MR. GRIFFON:** Agree, agree. I mean, we
15 don't know, I guess that's the unknown for me.
16 And my only basis is, like I said, that I
17 thought that what I heard Roger describe was
18 that not everyone was monitored for, you know,
19 not even the people within the NDRP. Out of
20 that group not even everyone was monitored for
21 neutron exposures all the time until maybe
22 beyond '67 or so.

23 **DR. ULSH:** For neutron exposures.

24 **MR. GRIFFON:** Right.

25 **DR. ULSH:** The trigger as Mutty mentioned,

1 the trigger to get into the NDRP was that you
2 had beta-gamma monitoring.

3 **MR. GRIFFON:** And you had an assignment in a
4 certain building, right?

5 **DR. ULSH:** Right, that is true.

6 **MR. GRIFFON:** So if you're in a maintenance
7 building and you have beta-gamma, you could
8 have gotten missed. That's the question, I
9 guess, for me. Is that wrong?

10 **MR. PRESLEY:** This is Bob Presley. If
11 you're a maintenance worker, and you're
12 assigned to a maintenance building without
13 beta-gamma monitoring, does that not show that
14 that guy went out and went in a building when
15 he was not monitored for this?

16 **MR. GRIFFON:** I don't think unless they had
17 a particular building assignment that was on
18 the NDRP list of buildings. Now if they had a
19 building assignment, then that would be true,
20 right, Brant? But if they didn't, I don't
21 think it would necessarily be true.

22 **DR. ULSH:** All I can say is that we do have
23 evidence that -- and this is exactly the
24 evidence that's been presented, but I believe
25 misrepresented in the press, that there are

1 people who had dosimetry, who were assigned to
2 other buildings. And when they went in to an
3 NDRP building, a neutron building, they were
4 assigned dosimetry.

5 Now, Mark, like I said, that is,
6 that's the only evidence that we have that at
7 least in the cases that we know about, they
8 were assigned dosimetry. Now whether or not
9 there could be this pool of other people who
10 went in, well --

11 **MR. GRIFFON:** Slipped through the cracks or
12 whatever, yeah.

13 **DR. ULSH:** It's not absolutely impossible,
14 but there's no evidence for it that we know
15 of.

16 **MR. GRIFFON:** And like I said, the only
17 evidence in my mind is that I was pretty sure
18 we discussed and we concluded that not
19 everyone was monitored for neutron in that
20 time period. So if not everyone was
21 monitored, it would stand to reason that some
22 of these other people from other buildings
23 weren't monitored when they should have been.
24 That's my, and I agree, it's not concrete
25 evidence.

1 **DR. ULSH:** For neutrons. That was exactly
2 the reason that the NDRP assigned notional
3 doses because it's recognized that they didn't
4 assign neutron doses, assign neutron dosimetry
5 in the early years. And that's what Roger was
6 talking about. That's why they assigned the
7 notional dose, and the criteria was you had to
8 have beta-gamma badging in those buildings.

9 **MR. GRIFFON:** I think we're going in
10 circles. I think we've got the issue on the
11 table, yeah.

12 **MS. BOLLER:** I'd like to ask a question.
13 This is Carolyn. Who makes the decision as to
14 what the interpretation of the Board was and
15 how far that extends? Is that not the Board
16 who needs to decide what they were in terms of
17 what they meant by that decision?

18 **DR. BRANCHE:** Carol, this is Christine
19 Branche from NIOSH. The Secretary is the one
20 who takes the information from the Board's
21 recommendation and essentially renders
22 whatever HHS' interpretation of the Board's
23 decision is and then submits that information
24 to the Department of Labor.

25 **MS. HOMOKI-TITUS:** And then Dr. Branche, if

1 I could just follow up. The implementation of
2 the class is actually done by the Department
3 of Labor. It's not done by HHS, and it's not
4 done by the Board.

5 **DR. BRANCHE:** Right.

6 **MS. HOMOKI-TITUS:** So that would be a
7 question that would have to go to DOL.

8 **MR. GRIFFON:** Yeah, and I know that we don't
9 weigh in with DOL. I agree with that. The
10 problem is this bulletin even describes that
11 DOL has turned back and asked NIOSH about how
12 to implement this, and they've made their
13 three-tiered approach or whatever.

14 But if the Board believes that their
15 recommendation isn't being implemented as we
16 thought it should be or appropriately, then
17 that's where I think we could weigh in back to
18 the Secretary anyway. But I'm not saying
19 that's our conclusion at this point, but I
20 think we have the, you know, that would be our
21 purview would be to weigh in to the Secretary
22 and say we have concerns about the
23 interpretation of our last recommendation.

24 **MS. BOLLER:** Well, I guess that was my point
25 was you all made the recommendation. You said

1 this is what we think based on whatever
2 evidence you had at the time, but you did it.
3 And now it's being interpreted which ^
4 comfortable that it's being done properly.
5 That was my only question.

6 **DR. BRANCHE:** This is Christine Branche
7 again. Early on in the call I think it was
8 Liz Homoki-Titus who reminded all of us that
9 we do have the option to invite the Department
10 of Labor as the Board has done in the past to
11 make a presentation. And the question could
12 certainly be how the Department of Labor is,
13 in fact, carrying out the recommendations that
14 the HHS Secretary laid out in this particular
15 issue.

16 That way there's no contention about
17 what he said or she said but what DOL is
18 telling the Board in how they're implementing
19 the class. And that might be something that
20 you want to consider as this work group ^
21 information that you lay before it today.

22 **MR. GRIFFON:** Thank you, Christine. I was
23 actually going to say as actions from this
24 discussion today I think one thing might be to
25 ask if we can have DOL at our April meeting,

1 even if it's part of their regular, I'm sure
2 they're on the agenda, if they can include a
3 part of the presentation to be a presentation
4 on this bulletin 08-14, I think it is, about
5 how they're implementing the Rocky Flats SEC
6 class.

7 But I was going to ask if that could
8 be one of our actions coming out of this
9 meeting. And the other is I would certainly
10 prior to the April meeting, I'm going to go
11 back and revisit our transcripts and our
12 deliberations for our SEC determination
13 because I want to clarify some of the, some of
14 our bases for the SEC petition just to make
15 sure. And I'll be prepared in April to, you
16 know, we could even have another work group
17 meeting if we need to on one of the nights if
18 we have time.

19 But I would be willing to present some
20 of that in more detail there so we can refresh
21 our memories on exactly what, because I can
22 sit here and say my recollection of what Roger
23 Falk said was, but I'd rather go back to the
24 transcript and find some of those
25 deliberations. We spent a lot of time on

1 that. No sense going through them all again,
2 but I'll agree to summarize some of those
3 deliberations.

4 **MS. MUNN:** This is Wanda. I certainly agree
5 we've spent more than adequate time on these
6 issues, time and time again. If we're going
7 to do this, if we're going to bring this issue
8 before the Board again, then I would certainly
9 request that you do, in fact, review the
10 transcripts and that you provide to the
11 working group excerpts from those transcripts
12 as you find applicable for your concerns.

13 **MR. GRIFFON:** Yeah, I will and prior to the
14 meeting.

15 **MS. MUNN:** Well prior to the meeting in
16 order that this work group could again have a
17 discussion about this. It would be very
18 unfortunate if we had a repeat performance of
19 some of us expecting one kind of report in
20 front of the Board and then hearing a
21 different kind of report when we actually got
22 to the Board meeting. That would really be
23 most disappointing.

24 But it would be very helpful if all of
25 us were absolutely on the same page before we

1 either make commentary to the Board in
2 addition to what we've already said or before
3 we specifically request a presentation to us,
4 especially from Labor, if we do not have a
5 pinpoint accurate question that we'd like to
6 have before all parties involved.

7 **DR. BRANCHE:** This is Christine.

8 Mark, I'm sorry, go ahead.

9 **MR. GRIFFON:** I was just going to say that's
10 just fine, Wanda. I will get, I have to find
11 the transcript sections, and I will forward
12 those to the work group prior to our meeting
13 in April.

14 But I wanted to clarify. Do you think
15 then we don't need at this point to ask DOL
16 just to present? Because it's not only, I
17 mean, it answers a number of questions. This
18 has been raised as a concern in the public
19 through newspaper articles. So it's not only
20 the work group asking the question of how is
21 this SEC being implemented appropriately. I
22 think that's a forum for DOL to clarify, if
23 nothing else, how they're doing this.

24 **MR. PRESLEY:** This is Bob Presley. Do you
25 want to just give some type of a clarification

1 for the working group maybe before you bring
2 this to the full Board, a consensus of the
3 working group?

4 **MR. GRIFFON:** Well, we have this bulletin,
5 and I've invited DOL to the other conference
6 call, and they turned me down, so I don't know
7 if they'd be willing to come on. But we have
8 this bulletin that I sent around which is
9 fairly clear on how they're doing this.

10 **MS. MUNN:** That seems to me to be clear.

11 **MR. GRIFFON:** Yeah, I just thought they
12 could -- a presentation of this could present
13 what the policy put forward in this bulletin
14 in that public forum, and then if others had
15 questions, they could field those questions at
16 that time.

17 **MS. MUNN:** But yet you see what I'm trying
18 to say is if we're going to ask DOL questions
19 about the bulletin and how it's being
20 implemented, it would behoove us to be very
21 precise about what our question is rather than
22 just how are you doing this.

23 **MR. GRIFFON:** Right.

24 **MS. MUNN:** If our question is focused on
25 what the press's interpretation is, then we

1 need to say that, and we need to specifically
2 ask the question that we want answered rather
3 than asking for a broad-brush interpretation
4 of their interpretation of what the
5 appropriate approach is for this SEC.
6 Apparently, there are lots of rocks involved
7 in our suppositions here, and unless we are
8 crystal clear about the questions we want
9 answered, then we're not likely to get a
10 crystal clear answer.

11 **MR. GRIFFON:** That is true. They would just
12 give us an overview of their policy, a
13 current. I mean, I have one question. I
14 think I was pretty clear with that. I would
15 agree that we don't have the facts to say that
16 the issue I raised did happen, but, you know,
17 but the question is, were people assigned to
18 other buildings, are we sure that they were
19 always monitored for neutrons and would they
20 be included in the NDRP system. So I don't
21 know, I also don't know if we can forward
22 questions to DOL. I don't know how that --

23 **MR. ELLIOTT:** That's not a question DOL's
24 going to be able to answer, Mark.

25 **MR. GRIFFON:** Right.

1 **MR. ELLIOTT:** The question you just asked
2 seems to me to be a question either the
3 working group needs to answer itself or NIOSH
4 needs to answer for you.

5 **MR. GRIFFON:** That's what I think. I think
6 the work group needs to answer that, and I
7 will agree to look back at the transcripts,
8 bring up those arguments that were made before
9 about who was monitored, our arguments about
10 whether --

11 **MR. ELLIOTT:** But I see that question going
12 not so much to how the class is being
13 administered by DOL as to the test that's
14 required in the regulation on adding a class.
15 Can dose be reconstructed with sufficient
16 accuracy, i.e., can it be bounded or a more
17 precise estimate be given? And so I think you
18 might get hung up in this if you reopen all of
19 this.

20 **MR. GRIFFON:** I didn't follow your last
21 point though, Larry. How does that get into
22 the bounding, can dose be bounded?

23 **MR. ELLIOTT:** The question that you asked is
24 are people, unmonitored workers who were
25 assigned to work in these buildings, are they

1 actually getting, were they actually monitored
2 during this timeframe.

3 **MR. GRIFFON:** Right. Were they not
4 monitored when they should have been?

5 **MR. ELLIOTT:** Right. And I think that's a
6 question that goes toward not necessarily the
7 administration of the class. I guess it does
8 in the end as to who's eligible to be in the
9 class, but it harkens all the way back to
10 whatever determination the Board used to add
11 the class based on insufficient, inability to
12 reconstruct dose with sufficient accuracy. I
13 think you got it.

14 **MR. GRIFFON:** I guess that's my point is
15 that we already came to, I mean, NIOSH doesn't
16 agree with that, but the Board did conclude
17 that we couldn't bound dose for that time
18 period for those exposures, right? So now
19 this is a question of just, this is a question
20 in my mind anyway of the implementation of
21 that monitored or should have been monitored
22 phrase. That's what I'm understanding this as
23 anyway.

24 **MS. BARRIE:** Mark, this is Terrie Barrie.
25 May I make a comment?

1 **MR. GRIFFON:** Sure.

2 **MS. BARRIE:** I just want to remind everyone
3 on the call that the Department of Labor voted
4 to add Building 881 previously to the class,
5 and it was because neutron dose was assigned
6 or DOL determined that NIOSH assigned neutron
7 dose to those workers. And what we're looking
8 for is just a very consistent implementation
9 of the class definition.

10 **MR. GRIFFON:** Yes, in that case, Larry or
11 Brant, it was determined that that individual
12 was assigned neutron dose from NIOSH's work,
13 correct?

14 **MR. ELLIOTT:** The misunderstanding here, I
15 think in the public and at that point in time
16 from DOL's perspective was that that claim or
17 the claims that they looked at in Building 881
18 were what we call overestimates. In other
19 words we were given a claimant favorable,
20 overestimate to show that in the end DOL would
21 find the case non-compensable.

22 If we were to do a best estimate or an
23 actual estimate of dose, we probably would
24 say, and which we have said to DOL, we don't
25 believe that there was that much neutron

1 exposure in 881, if any. So there's another
2 generosity built into what the DOL's done
3 here. I think that's been lost upon people.
4 And we're okay with that.

5 **MR. GRIFFON:** So you're saying, yeah, okay.

6 **MR. ELLIOTT:** ^ called us and talked to us
7 about the claims and of course you can say
8 this after the fact, and they understood that
9 these were overestimates where we've just
10 thrown everything at it that we could. And in
11 our actual belief, we don't find any plutonium
12 exposure in Building 881, they would have
13 probably handled that differently.

14 **MR. GRIFFON:** And that's why the revised
15 bulletin says that if they got 100 millirem in
16 any one year and they're not assigned to those
17 neutron buildings, then they're supposed to
18 follow up, right? They're supposed to --

19 **MR. ELLIOTT:** Yes.

20 **MR. GRIFFON:** -- look further at the case
21 because it could be an overestimate or
22 whatever. So that's a little revision in
23 their bulletin anyway.

24 **MR. ELLIOTT:** Yes, sir.

25 **MR. GRIFFON:** That's a little different, but

1 my question still stands for these other
2 buildings where they would have had worked in
3 other buildings and assigned intermittently to
4 the known plutonium buildings or neutron
5 exposure areas. That's the question I have.

6 **MR. ELLIOTT:** Well, to benefit the working
7 group, I'm ready to ask Brant to look into how
8 many maintenance workers do we see in the
9 NDRP. What other job categories or titles can
10 we point to that worked out of these other
11 buildings that may have been assigned out of
12 that building to go to one of the plutonium
13 finishing buildings and report back to you all
14 on that. And then I think it's, the working
15 group has to come to some decision here on how
16 they want to proceed.

17 **MR. GRIFFON:** And I'll also agree to, like I
18 said, look back at the transcripts, pull
19 together those portions where we deliberated
20 on this issue of who was and was not
21 monitored, and provide those to the work group
22 and maybe -- I don't know the schedule for the
23 next meeting, Christine, but if we have time
24 for a work group meeting during that Board
25 meeting maybe we can do that.

1 **DR. BRANCHE:** Yes, actually, I'll be sending
2 out the agenda this week to the Board members.
3 It's a pretty tight agenda.

4 **MR. GRIFFON:** I know. I figure --

5 **DR. BRANCHE:** And if, Mark, if you and your
6 work group members decide that you want to do
7 it, there is after the public comment period
8 on the first day that ends at six p.m. That's
9 on that Monday, and that's actually the only
10 time in the evening, because you did mention
11 evening. And we're starting every single day
12 at 8:30 in the morning.

13 **MR. GRIFFON:** What I was thinking maybe we
14 can do this when we get there, but it could be
15 a half hour, 40-minute kind of update meeting.
16 We could hear from Brant, and I'll summarize
17 what I found just in preparation for our
18 report to the full Board.

19 But it wouldn't have to be a lengthy
20 time period, but I think it would be
21 worthwhile. I will report accurately what we
22 say at the work group to the full Board. I'm
23 not going to, I'll report what we decide to
24 report to the full Board. But I think it
25 would be worthwhile just to have Wanda, Bob.

1 Mike, do you agree with that? Is that

2 --

3 **MS. MUNN:** My personal opinion is if we
4 could do this either by a teleconference
5 beforehand or perhaps Sunday night beforehand
6 so we aren't up against some other meetings.
7 I can't imagine anybody --

8 **MR. GRIFFON:** I won't rule out that option,
9 but I know --

10 **MS. MUNN:** -- Nobody's going to fly in on
11 Monday morning surely.

12 **MR. GRIFFON:** I won't rule out that option,
13 but I know we've got a lot of, there's a
14 subcommittee and then the meeting next week.
15 We have a lot of things coming up here.

16 **MS. MUNN:** We sure do, and I know your plate
17 runneth over.

18 **MR. GRIFFON:** So that's the only reason, I
19 mean, the calendar's closing in on us quick.
20 But if we can do a work group before, I mean,
21 we don't have to put these in the Federal
22 Register. Maybe we could do it the week
23 before the Board meeting at the end of the
24 week, you know, that Thursday, Friday.

25 **DR. BRANCHE:** Mark, this is Christine.

1 Actually, a couple of people asked, Mound is
2 the last face-to-face work group meeting that
3 we have before the Board meeting in Tampa.
4 And so, for example, Wanda's having a fairly
5 quick Procedures call on the second, so
6 there's time on the second. There's time on
7 the third.

8 I've been reluctant to schedule things
9 for the fourth although the morning would be
10 available because people will be getting their
11 last paperwork. I wanted to make sure that
12 NIOSH staff have time to get everything
13 together in time to go ahead and go onto their
14 planes over the weekend.

15 So I've been trying to not schedule
16 anything for certainly the afternoon of the
17 fourth. But if you wanted to have a 30-to-40
18 minute face-to-face meeting, you could
19 certainly have the same on a conference call
20 the week before.

21 **MR. GRIFFON:** Let's look at our schedules.
22 Can we do that on like Thursday?

23 **DR. BRANCHE:** The third? I can be available
24 before three p.m. eastern daylight time.

25 **MR. GRIFFON:** How about Thursday at 11

1 eastern time?

2 **MS. MUNN:** I will be in Florida at that
3 time, so if you want to set it earlier, that's
4 fine.

5 **MR. GRIFFON:** Well, I've got something
6 earlier actually.

7 **MS. MUNN:** Oh, okay. So you're suggesting
8 ten?

9 **MR. GRIFFON:** Eleven.

10 **DR. BRANCHE:** This is on April 3rd?

11 **MR. GRIFFON:** Yeah.

12 **DR. BRANCHE:** Mr. Presley, how does that
13 work for you?

14 **MR. PRESLEY:** Right now it works pretty
15 good. I have -- wait just a minute and let me
16 look if y'all can bear with me one second.

17 **DR. BRANCHE:** Okay, while he's looking, Mr.
18 Gibson?

19 **MR. GIBSON:** Yeah, that's okay, Christine.

20 **MR. GRIFFON:** And, Brant, will that give you
21 enough time to look into some of this as Larry
22 suggested?

23 **DR. ULSH:** I don't know, Mark. It's going
24 to be really tight. Could you perhaps clarify
25 what you would like to see? What are you

1 looking for in terms of a product from us?

2 **MR. GRIFFON:** I guess, I'm not sure what
3 you're going to be able to produce, but what
4 Larry just said was --

5 Well, Larry, maybe you can --

6 **MR. ELLIOTT:** We'd look at this one case
7 that Arjun has identified in the report if
8 he'll give us the name if that's an example of
9 the type of worker that might have gotten
10 shuffled around and missed here. Certainly, I
11 think can't we look in the NDRP and see by job
12 category or if we have maintenance workers
13 that we have people assigned working out of
14 one of these other buildings ^ work
15 sporadically or intermittently with ^.

16 **MR. GRIFFON:** But if they're in the NDRP, I
17 think we have that same argument, right?

18 **DR. ULSH:** That they're self-selected.
19 We're only going to see them if they're in the
20 NDRP.

21 **MR. GRIFFON:** The problem I have is there is
22 no way to search work histories, is there? To
23 look for maintenance, to look for that other -
24 -

25 **MR. ELLIOTT:** In the claims system?

1 extensive worker documentation in terms of the
2 raw records. We have not, this, did not
3 examine this particular aspect, and we ^
4 investigation, but we have some selection of
5 workers from that investigation that although
6 there's no guarantee that it would be
7 representative of the type of ^. Or
8 alternatively, you could look at a category of
9 maintenance workers who we know were roving
10 workers from among that sample ^ look at that.

11 **MR. GRIFFON:** I don't know what in the
12 records though, Arjun, what in the records is
13 going to show that they were roving
14 maintenance workers and they went to plutonium
15 buildings.

16 **DR. MAKHIJANI:** Well, Kathy DeMers, we've
17 done extensive interviews in the course of our
18 site profile review, and I was not involved in
19 that process. I've been trying to reach
20 Kathy, that's why, Brant, I have not sent you
21 the number because I don't, I haven't been
22 able to reach her.

23 But I think that normally in the
24 course of our interviews we do get that kind
25 of information from the workers. And I'm just

1 speculating at this stage, but I don't know
2 that we have examples of this type. But if
3 you're looking for a way to get them, that
4 might be one place to look.

5 **MR. GRIFFON:** There is one other case that I
6 would recommend following up on for obvious
7 reasons, and that's there's one, a reference
8 made to a case in the Rocky Mountain News
9 today actually. And I think there's even
10 names, I mean, I won't say it on the call
11 here, but there's even names in the newspaper
12 article. I think they're sort of asking about
13 this kind of scenario. I'm not sure.

14 **DR. ULSH:** I'll make sure to get it right
15 after --

16 **MR. GRIFFON:** Yeah, I just glanced at the
17 article.

18 **DR. ULSH:** If there are people in it that
19 fit what we're looking for, in other words,
20 have evidence --

21 **MR. GRIFFON:** Yeah, I think it's got to be
22 these kind of case-by-case. I don't know that
23 we're going to find a lot of these because we
24 can't search anything. But if we have it
25 through interviews --

1 And, Arjun, can you, can SC&A forward
2 any special cases where you've done interviews
3 or whatever, one, two, five, whatever you find
4 that could be cases of this?

5 **DR. MAKHIJANI:** I will do that. I will talk
6 to Kathy.

7 Joe, do you know where Kathy is?

8 **MR. FITZGERALD:** Yes, she's in transit to
9 Santa Susana.

10 **DR. ULSH:** Just so we're all on the same
11 page I think what we're looking for is
12 specific individuals where there's evidence
13 that they were in a plutonium building. And
14 we want to check and see whether or not
15 they're in the NDRP. Is that kind of what
16 we're thinking about here?

17 **MR. GRIFFON:** Yeah, that they were assigned
18 to, yeah, that they were assigned to buildings
19 outside those listed in the NDRP, but they
20 worked in a neutron area.

21 **DR. ULSH:** Okay.

22 **MR. GRIFFON:** And it might be just them
23 saying that in the interview might be one part
24 of it. You might check and -- here's the
25 problem. If they say it in their, if an

1 individual's claim is that, yeah, I worked in
2 this maintenance building for 30 years, but I
3 went, and I did work in these other plutonium
4 areas all the time --

5 **MS. MUNN:** But did, I was not badged.

6 **MR. GRIFFON:** -- what does that mean?

7 **MS. MUNN:** As long as they were badged even
8 for --

9 **MR. GRIFFON:** Yeah, and they say but I
10 wasn't badged. That would be the thing, yeah.
11 I'm not sure how many examples like that we're
12 going to have. Maybe, probably not many.

13 **MS. MUNN:** Well, it's difficult to imagine
14 maintenance workers who are assigned to ^ at a
15 site like Rocky Flats and not being monitored
16 for beta-gamma.

17 **MR. GRIFFON:** Yeah, but -- well, anyway,
18 we've been around this circle. I'd be
19 surprised, too, but that doesn't necessarily
20 mean they're going to be assigned neutron
21 dose. That's the problem.

22 **DR. ULSH:** Well, Mark, in answer to your
23 question, well, I don't know if it was your
24 question, Mark, or someone else's. But in
25 answer to your question, I think that by the

1 April Board meeting if I have names, specific
2 names of people, I can tell you whether or not
3 they were in the NDRP. That is easily
4 accomplishable.

5 **MR. GRIFFON:** So we can at least go to that
6 step, and we can at least present if you have
7 several of these examples you can paraphrase
8 the examples sort of in what you found.
9 Whether you found anything in the NDRP or not,
10 right?

11 **DR. ULSH:** That's right. Yeah, I think so.

12 **MR. GRIFFON:** And we just have to agree if
13 anybody has any of these examples, SC&A,
14 you've got to get them to Brant in the next
15 several days so he has enough time.

16 **DR. BRANCHE:** Mark, this is Christine. So
17 are you still going to go forward with your
18 proposed 11 a.m.?

19 **MR. GRIFFON:** Yes.

20 Is that okay, Bob? You were checking
21 your --

22 **MR. PRESLEY:** Is that on the third?

23 **MR. GRIFFON:** Yes.

24 **MR. PRESLEY:** Right now I don't have a
25 problem. That's a Thursday.

1 **MR. GRIFFON:** Yeah, we'll go ahead with that
2 then.

3 **DR. ULSH:** Do you all envision that being
4 for the working group? Or would you desire to
5 have participation with NIOSH in that?

6 **DR. BRANCHE:** Say that again, please?

7 **DR. ULSH:** What I'm wondering if it's just
8 going to be the four working group members or
9 if you want any participation --

10 **MR. GRIFFON:** No, no, no, we want you to
11 report back to us.

12 **DR. ULSH:** In that meeting.

13 **MR. GRIFFON:** Yeah.

14 **DR. BRANCHE:** You want a full-fledged work
15 group meeting to address this particular
16 issue.

17 **MR. GRIFFON:** Yeah.

18 **DR. BRANCHE:** And I would propose also
19 anything that you're going to say before the
20 Board --

21 **MR. GRIFFON:** Yeah.

22 **MS. MUNN:** Absolutely.

23 **MR. GRIFFON:** Out of that meeting I think
24 the work group wants, we want to come to
25 agreement of our report back to the Board,

1 what we're going to report.

2 **MR. PRESLEY:** I agree.

3 **MR. GRIFFON:** And I will agree for that
4 meeting to get, to look back at our previous
5 deliberations and pull together segments of
6 the transcripts or whatever that are
7 applicable to this situation.

8 **MS. BOLLER:** And, Mark, you will copy in the
9 Congressionals and Terrie?

10 **MR. GRIFFON:** Yeah, and I'll have to work
11 with Christine on the, you know, if we
12 generate new documents, will certainly have to
13 go through the Privacy Review, right,
14 Christine?

15 **DR. BRANCHE:** Yes, if new documents are
16 provided, yes. I suspect that given this very
17 specific information that you asked of Brant,
18 you are probably going to be able to only
19 verbally discuss his findings as opposed to
20 any report.

21 **MR. GRIFFON:** Right, those where we're
22 talking about specific cases, we certainly
23 will have to not --

24 **DR. BRANCHE:** We won't be able to distribute
25 those.

1 **MR. GRIFFON:** Right, right, but if I pull
2 together sections of transcripts from previous
3 transcripts that I'm planning on discussing, I
4 can forward those or should I still run those
5 through you?

6 **DR. BRANCHE:** No, those that are on the
7 website have already been Privacy, they
8 couldn't be posted until they went through the
9 Privacy Act. So anything you prepare there
10 from that transcript is fair game. You could
11 send that.

12 **MR. GRIFFON:** And I won't include anything
13 else in that kind of thing just so we don't
14 have to go through Privacy review again.

15 **DR. BRANCHE:** Right.

16 **MR. GRIFFON:** But I would forward that to
17 you certainly, Carolyn, yeah. Anything we
18 can, the answer is anything we can, but we'll
19 certainly get around to people.

20 **DR. BRANCHE:** And what we've done, just for
21 consistency's sake we've allowed, we've asked
22 Jason Broehm to forward that information
23 although Mr. Griffon certainly is, can do that
24 for people interested in this work group. But
25 just so that everyone is consistently

1 notified, if we can, if, Mark, you can get
2 that information to us early enough, we can
3 use our, the channels we've established to get
4 information to the petitioners, to get
5 information to the members of Congress who've
6 shown an interest in this.

7 **MR. GRIFFON:** I'll do that, yeah.

8 **DR. BRANCHE:** We'll send out an announcement
9 about the next work group meeting for this
10 work group that'll be April 3rd, at 11 a.m.
11 eastern daylight time.

12 **MR. PRESLEY:** Liz, this is Bob Presley. Is
13 Liz still on?

14 **MS. HOMOKI-TITUS:** Yes, sir.

15 **MR. PRESLEY:** Liz, call me at home. You got
16 my home phone number?

17 **MS. HOMOKI-TITUS:** I do believe I do.

18 **MR. PRESLEY:** Thank you.

19 **MR. GRIFFON:** Okay, so I think that's all I
20 had to discuss for this call. I mean, at
21 least we have a path forward, and that's all I
22 have for now. I would encourage people to
23 read through that bulletin if you haven't
24 already, and also to look at the Rocky
25 Mountain News, that example. We should

1 definitely follow up on that example in the
2 Rocky Mountain News article today.

3 **MS. MUNN:** I'll track down the Rocky
4 Mountain News, but the bulletins themselves
5 seem pretty straightforward and pretty clear
6 to me.

7 **MR. PRESLEY:** That's what I was going to
8 say. I read the bulletin and it looks --

9 **MR. GRIFFON:** Well, if it was that
10 straightforward, they probably would have got
11 it right the first time. But let's review
12 those and discuss it at the next work group
13 call.

14 **MS. MUNN:** We will.

15 **DR. BRANCHE:** Will do. Thank you very much.

16 (Whereupon, the working group meeting
17 concluded at 12:25 p.m.)
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I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of March 17, 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 18th day of November, 2008.

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