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 April 3, 2008.
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**TRANSCRIPT LEGEND**

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

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

-- "^" denotes telephonic interruption.
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PROCEEDINGS

(11:00 a.m.)

WELCOME AND OPENING COMMENTS

DR. CHRISTINE BRANCHE, DFO

DR. BRANCHE: I am Dr. Christine Branche, the Designated Federal Official for the Advisory Board on Radiation and Worker Health. And this is now a meeting of the Rocky Flats working group. And so I would like to ask all of the Board members to please identify themselves. Everyone who’s participating from the Board please acknowledge if you have a conflict with Rocky Flats. All Board members please announce yourselves.

MR. GRIFFON: This is Mark Griffon chairing the working group, no conflict.

MS. MUNN: Wanda Munn, working group, no conflict.

MR. GIBSON: Mike Gibson, working group, no conflict.

DR. BRANCHE: Mr. Presley?

(no response)

DR. BRANCHE: I’ll come back to him.

Are there other Board members on the
line?
(no response)

DR. BRANCHE: Are there other Board members on the line?

MR. PRESLEY: This is Bob Presley. Were you calling the roll?

DR. BRANCHE: Yes, I was.

MR. PRESLEY: Instead of hitting the mute button, I turned my phone off, so I’m sorry. I’m here.

DR. BRANCHE: And do you have a conflict with Rocky Flats?

MR. PRESLEY: No, ma’am.

DR. BRANCHE: Are there any other Board members?
(no response)

DR. BRANCHE: We do not have a quorum so we can proceed. Will the NIOSH staff please identify yourselves and please say if you have a conflict with Rocky Flats.

MR. ELLIOTT: This is Larry Elliott, the Director of OCAS, and I do not have a conflict with Rocky Flats.

DR. NETON: This is Jim Neton with OCAS, no conflict.
DR. ULSH: Brant Ulsh with OCAS, no conflict.

DR. BRANCHE: Will the ORAU staff if you’re on the line please indicate your names and please say if you have a conflict with Rocky Flats.

MR. SHARFI: Mutty Sharfi with the ORAU team, no conflicts.

DR. BRANCHE: SC&A staff would you please indicate your names and please say if you have a conflict with Rocky Flats.


DR. BRANCHE: Thank you, gentlemen. Are there other federal agency staff, would you please identify yourselves?

MS. HOWELL: Emily Howell, HHS, no conflict.


MR. KOTSCH: Jeff Kotsch, Department of Labor.

DR. BRANCHE: Are there any petitioners or their representatives who are on the line who would like to announce their names?
(no response)

DR. BRANCHE: Are there any workers or their representatives who would like to indicate their names?
(no response)

DR. BRANCHE: Any members of Congress or their representatives please, would you state your names?

MS. BOLLER: Carolyn Boller, Congressman Udall’s office.

MS. ARAMANGST*: Pat Aramangst, John Salazar’s office.

MS. EVAH*: Beatrice Evah, Senator Salazar’s office.

MR. HOLAN*: Bill Holan, Congressman Ed Perlmutter’s office.

MR. KESSLER: Zane Kessler, Senator Ken Salazar’s office.

MS. GNIRK: Gail Gnirk, Congressman John Salazar’s office.

DR. BRANCHE: Okay, we’re just about to turn this over to Mr. Griffon. I know that she wanted to mute herself, but Ms. Laura Franks from the **Rocky Mountain News** is also on the line.
We would ask that everyone observe telephone etiquette, and we need to make certain that our, we can hear each other as well as making certain that our court reporter can hear everyone who’s speaking. I would ask then that everyone mute their lines unless they are speaking.

If you do not have a mute button, then please dial star six in order to mute your line. And if you’d like to speak, you can then use that same star six to unmute and then speak. It’s very important given the number of callers that we have and given the fact that this is always an exciting topic that we observe phone etiquette and that we do mute our lines.

Mr. Griffon, I’m handing this over to you as the Chair.

**INTRODUCTION BY CHAIR**

**MR. GRIFFON:** Thank you, Christine.

This is Mark Griffon. I think we should make sure with so many people, again, I think you said this Christine, that we all identify ourselves when we talk today.

This work group call is really an
update on where we are at in assessing this question around mainly the terminology. And I think my question that I put before the work group was do we need to in any way clarify our language. We had written in our recommendation defining the class as monitored or should have been monitored for neutrons.

And since then several news stories have come out, and to get to the main point -- we discussed this in the last work group call, so I don’t need to go through everything -- but to get to the main point, there’s a question of whether individuals in other buildings, not in the quote-unquote neutron buildings as identified in the NDRP database had the potential to be exposed to neutrons and could have been assigned to one building, say 334, the Maintenance Building, and actually then occasionally or quite often, who knows, sent into one of the neutron buildings to do work where they could have been exposed to neutrons.

And then the question is would they have been always captured in the NDRP system or would they have gone unmonitored
potentially. I guess that’s sort of the question that we raised in the last call. A couple tasks we had assigned from the last call. One was I was going to try to find past transcripts of or excerpts from past deliberations where we discussed the issues of the completeness of monitoring, and I assembled some of that.

The other question was, were there individuals that we could identify that may exemplify this case. In other words individuals that were assigned to other buildings and did work in the neutron areas where they were not monitored for neutron exposures.

And I think NIOSH was going to look into that. I think SC&A was also going to look into that. I think that that might be a work in progress because I’m not sure other than a few cases that were identified, one of which was in one of the news reports, I’m not sure we’ve made much headway on that. But that’s sort of background on where we are coming into this call, and I guess that’s where we should start it off.
DR. BRANCHE: I believe we have a member of Congress who wants to make a statement.

MR. GRIFFON: Okay, that would be great.

MS. BOLLER: Mark, I don’t know that Mark is on the line yet. He was still chairing a committee and was maybe a little bit late. So why don’t you just proceed.

MR. GRIFFON: Okay, we can proceed. Whenever he comes in just let me know, and we’ll give him the floor.

SEC CLASS FOR ROCKY FLATS

So I put together a document, a Word document, which was distributed to the work group. I know it was pretty last minute so the Privacy review couldn’t have been completed in time, but in that I tried to -- hold on one second. In that I tried to look for some excerpts where we had discussed the issue of the completeness of monitoring in the past work groups and technical phone calls. And I think a couple things come out of that.

I think one thing that is clear -- and I should also say Brant, just this morning, Brant Ulsh sent another document which we had seen in the past. It’s the NDRP Protocol
which might help us to shed some light on this as well. It was 134 pages so I think I found the area that Brant’s focused on, but in the last 20 minutes I’m not sure I know exactly what he wanted us to focus on.

But anyway, in my document there’s sort of two issues. If people read the top paragraph the one question is, and the one thing we discussed in the work group deliberations in the past was were the highest exposed individuals monitored for neutrons.

And then the question, and we determined as a work group, although I don’t know exactly if NIOSH ever really agreed with us on this, but we determined that the highest exposed were not monitored at least in some of those years that we looked at. And, in fact, but they were assigned a notional dose which means that they were assigned a dose.

Now here’s where Brant may help clarify from the NDRP Protocol. But I was of the understanding that they assigned a dose based on either their gamma result multiplied by a neuron-to-gamma ratio or by a nearby data.
And I may have that wrong in my introduction to this question. But that’s sort of how they had to, they had gaps in their records. It wasn’t all neutron film data. It was sometimes gamma data that they had that was multiplied by a building ratio of neutron-to-gamma or otherwise substituted with nearby data.

Is that right or close, Brant?

DR. ULSH: Well, Mark, that is a topic that I wanted to talk about, but I can do that later.

MR. GRIFFON: Okay, okay.

DR. ULSH: The nearby method is something I want to go into a little bit, but --

MR. GRIFFON: It was a little different, yeah. I think I picked up on that in the document you sent that I may have mischaracterized a little bit.

Anyway, the other part of it is -- and I think this is in one of the transcripts, actually, one of the technical calls on, I believe it’s on 4/12, and this really gets to the heart of the question.

I think that Roger Falk in his memory
basically seemed to remember that in the early years, and he wasn’t sure exactly when this changed. But in the early years most of these buildings that I’m defining loosely as the neutron buildings, the ones listed in the NDRP, basically had an in-house crew.

In other words all their maintenance, laborers, even janitors, everyone was sort of self contained and assigned to the one building. And then he said that later, and he wasn’t sure when in the ‘60s this might have occurred, but later that maintenance could have come out of Building 334, the more general maintenance building.

So then we go back to the primary question. I’m not sure that any of the transcripts that I included, I just wanted to give some background on it. I’m not sure they get us to any definitive answer, but at least it provides a little background. So that’s sort of where I’m at with my review of this.

And then I would ask Brant if you had any progress in terms of identifying some of these cases, the action that was raised from the last work group.
CONGRESSMAN MARK UDALL

CONGRESSMAN UDALL: Mark, this is Congressman Udall. How are you today, sir?

MR. GRIFFON: I’m great. I’m great.

CONGRESSMAN UDALL: Could I weigh in for just a couple of minutes?

MR. GRIFFON: Absolutely, we were notified you might be joining us, so the floor is yours.

CONGRESSMAN UDALL: Thank you, and I won’t take too much time here, but I did just want to weigh in on what you all are considering today and also give a brief historical perspective, just take me a couple minutes.

I remember in 1999 or 2000 Secretary Richardson at that time made an announcement that the federal government was no longer going to hide behind sovereign immunity. In other words the concept that the king can do no wrong. It stems to the common law era of the British Isles. And there was elation among many of us, most notably and most appropriately among the workers at the Flats.

And out of that, of course, began some progress, but then some twists and turns, and
we’ve traveled down a number of cul-de-sacs. In the meantime the families and the workers haven’t received their just due. These workers fought in the cold war. They were no less heroes than those who fought in the hot wars of the last century, World War II most notably.

And I’ve got to tell you, and you all know the delegation has been weighing in, I’m just, I’m appalled that we continue to somehow seem to find ways to stonewall and put up roadblocks to these deserving workers. And I’m asking the DOL to reverse its decision and provide compensation to these veterans.

It just seems to me that the DOL which we in the Congress felt could better provide a just outcome, and we moved a lot of this responsibility from the Department of Energy over to the DOL, it just seems that they’re attempting to deprive compensation to these workers and their families. And it just seems like every time you clear a hurdle, you move a roadblock out of the way, there’s another one put in place.

These workers clearly meet the
requirements for eligibility. The Administration has to hold up their end of the bargain and grant them the benefits that they deserve. And I’m asking the DOL to reverse its decision, reverse it quickly, and I’m waiting for an answer.

Let me make one other comment specifically. This 250-day standard I think you all were discussing as I got on, and that seemed to make sense, been reaffirmed by Secretary Leavitt and others, and then now we’re talking about 250 days in a specific building at the Flats. And in the end I so strongly believe -- it makes me angry to not think we’re going to move in this.

We’ve got to err on the side of the workers not the side of the federal government. And this will speak volumes of what kind of a society we have and how we value the people who literally put their lives on the line. I live just a few miles from this site. We worked very hard to clean it up to ensure the safety and the future of the people living around Rocky Flats. My gosh, we have to do the same for the workers who were
out there.

I appreciate you letting me weigh in on. I’ll listen a little bit more and learn a little bit more as well, but I appreciate the chance to be heard, and I certainly have a role to play here. And I’m going to do everything I can to push, cajole, urge the Department of Labor to change its point of view on this. Thanks again for letting me weigh in.

MR. GRIFFON: Thank you very much, Congressman Udall.

SEC CLASS FOR ROCKY FLATS (cont’d)

So I guess at this point I’ve given the background from my perspective. I think what I really want to come away from this meeting with is at least my only plan for the upcoming Advisory Board is to sort of give an update on where we’re at in discussing this issue. And not because I think we still need to look at this question of can we find other cases and have more discussion around that, but at least just to give an update because I know we’re getting a lot of questions about this.
But I’m not sure we’re going to be in a position to make any sort of motion at this upcoming meeting. But having said that I think my, you know, I’ve looked at these transcripts, and I also see, you know, I think that we just need to examine this issue a little closer. And I’d be interested in hearing from NIOSH at this point.

Brant, if you’re ready to discuss the NDRP Protocol a little bit and if you had any luck in finding individual cases to review.

**MS. MUNN:** Mark, this is Wanda Munn. And I don’t want to interrupt your flow of information here, but as long as the congressman may still be on the line, and his staff is still on the line, it seems really important for us to try to make sure that all of the folks who are so deeply interested in what we’re doing here have a clear understanding of some of the details of what we’re doing. And I think I heard the congressman say it’s his understanding that we are now expecting people to show that they have worked for 250 days in one building. And I think it would be wise for us to try to
clear that up. Because the law indicates that the individual must have worked for 250 days. I don’t believe there has been any effort at all to indicate that they must be 250 days always in an exposed area or always in a given building.

**MS. BOLLER:** Wanda, this is Carolyn from Congressman Udall’s office. As we’re reading this the law said 250 days on the site or at the plant site.

**MS. MUNN:** That’s correct.

**MS. BOLLER:** There is a memo, 8-14, issued by the Department of Labor on January 23rd that says you’ve got to work 250 days in a building in order to be eligible for the SEC issue.

**MS. (UNIDENTIFIED):** Again, this is Erin from Congressman Salazar’s office, and as we understand that, that has actually confined one of our constituents from Grand Junction, Colorado from actually receiving compensation because of that additional red tape which is the source of our protest letters that the delegation sent.

**MR. GRIFFON:** Well, as you know, that’s the crux of the issue, Wanda, that there’s this,
DOL is now, I mean, maybe DOL can speak to this, too. Jeff Kotsch, I think Jeff’s on the line.

**DR. BRANCHE:** This is Christine Branche, just a clarification, and I think that it would be important for Ms. Munn to have an opportunity to share her thoughts for everyone concerned. This is the Advisory Board to NIOSH, not the one to the Department of Labor.

**MR. GRIFFON:** Yeah, there is none to the Department of Labor. We know that, Christine, but --

**DR. BRANCHE:** Well, I want to make sure that the members of Congress understand that.

**MR. GRIFFON:** Right, right, they do. But I think Jeff might want to -- and we’ve had DOL clarify things for us before. I think it’s important to at least maybe have him speak to that and clarify.

**MR. KOTSCH:** Mark, this is Jeff. The way we read or the way the bulletin was written, 08-14, it was intended, at least the way the current thinking is, is it was intended to be a measurement of who was monitored or should have been monitored for neutrons. And that
put those people as having been in those buildings or there’s other criteria in there, but it links off issues of being in those buildings.

**MS. (UNIDENTIFIED):** This is Erin from Congressman Salazar’s office again. We understand that at this point in time one of our constituents has been a recommended denial after signing a waiver which should have been an open and shut case for the SEC recommendations as we understood them last September. So again, the Department of Labor has again inserted rules that have created a recommended denial on a case that after all of our hard work should be a presumptive approval.

**MS. BOLLER:** I have also -- this is Carolyn in Congressman Udall’s office. And, Jeff, I have the same thing. A gentleman in Thornton was given a letter in November confirming the SEC and that they would be receiving the compensation. In March they’re told sorry, you’re not going to get it because you can’t, you can’t prove that you worked in the building for 250 days. So you don’t change
the damn rules in the middle of the game.

MR. GRIFFON: This is Mark Griffon again. I think that’s one reason that -- and we’re not in a position, as Christine pointed out, to advise DOL, but I think one thing that I, one reason that I thought the work group needed to reconvene on these issues is that if we feel that our recommendation needs clarification, then we might need to write another letter to the Secretary or at least clarify it.

I think where I’m having trouble is for me monitored or should have been monitored and if even interpreted this way in several meetings that we’ve been at we said based on current standards which would mean they could achieve 100 millirem external dose, you know, have the potential to be exposed to 100 millirem external dose.

That doesn’t necessarily necessitate being in a building for 250 days. So I think that’s where we’re mixing two criteria here. And I’m a little concerned about that. I think we may want some clarification. I think Wanda’s interpretation is correct. That’s I think where we’re at here.
MR. PRESLEY: Mark, this is Bob Presley. I have the same interpretation as Wanda on this thing. I have a problem with some of this stuff.

DR. BRANCHE: Okay, point of order. You’ve asked Mr. Kotsch to reply. Please give him an opportunity to do so. This is Christine. Ms. Munn did not have an opportunity to actually finish her thought. So I think for Robert’s Rule of Order, let the people who’ve opened the channels for communication, have an opportunity to reply.

MR. GRIFFON: Yes, Christine. This is Mark Griffon. I apologize if I didn’t. I thought Jeff was finished.

But Jeff, if you had any --

MR. KOTSCH: Oh, no, I was finished. Unfortunately, I was finished with that statement as far as the way the Department of Labor has interpreted the use of buildings for the 250 days.

MS. MUNN: This is Wanda again, and my concern is simply wanting to clarify for all of the people who are on the line that our efforts in this work group are very focused.
They’re focused specifically on the law as it applies to us, and we deal specifically with radiation and radiation doses.

And so that being the case, when the primary issues seem to be issues that are bringing concerns that are outside our ability or our charter to address, we can’t do that in our group. I guess that’s what I was trying to say when I was referring to the statements that had been made earlier.

MR. GRIFFON: This is Mark Griffon again. I guess I made my point. I mean, I am willing to, my point is just that if we need to clarify our recommendation, and I don’t think that’s outside of our charter --

MS. MUNN: No.

MR. GRIFFON: -- and I agree that some things if they’re DOL issues, that is outside of our charter. But if, we knew this when we first developed this recommendation, or some of us had concerns anyway that, you know, we left the language broad because we didn’t have more information at our fingertips. We didn’t want to limit it. We wanted to let those that have the additional information make that,
implement it correctly.

But if we feel that there’s, you know, if our recommendation is being misinterpreted, then I think that would be a point. Now I’m not saying -- I personally feel there might be a problem there. Others in the work group may feel differently, but I guess that’s the extent or that’s the nature in which I think we would have an opportunity to weigh in. Beyond that, I agree, Wanda. It would be out of our sort of charter.

**MS. BOLLER:** It’s Carolyn again. Maybe I’m confused, and somebody could help me here. It seems to me that the Board made a decision based on the evidence that was presented to them to say that people who worked during this period of time either should have been or could have, or were monitored.

The Board made that decision. And it seems to me that the Board made the decision based on the facts, and we believe that this was the right decision that they made for this particular group of people. And that now there’s being a different interpretation or an interpretation on what the Board did being
made by Department of Labor.

And I think, Wanda, this is where it would be really helpful -- because we agree with you. It’s 250 days on the site, not at a building. And I think this is where the Board needs to say, hey, folks, this is what we did. We made this decision based on this information, and you’re misinterpreting it.

**DR. BRANCHE:** This is Christine Branche. Actually, the Board doesn’t have but so many options available to it. It makes its recommendations to the Department of Health and Human Services Secretary who is the person who renders the decision, not the Board.

**MR. GRIFFON:** Correct.

**DR. BRANCHE:** And it is the Board that makes only a recommendation to the HHS Secretary. And the HHS Secretary, using that and other information, then renders the decision for the Department, which is then forwarded to the Department of Labor.

At this juncture this work group has only a few options available to it because the recommendation for the Board has already been made. They can use this as a learning
opportunity to help the Board in future
decisions, but the idea of reopening this or
stressing something specific to the Department
of Labor is really not an option --

MR. GRIFFON: Nobody’s --

DR. BRANCHE: -- I’m trying to make a
clarification so that everybody understands
what the limits of this Board really are.

MS. BOLLER: I think that we do, but we’ve ^
the Board that we need to at least -- this is
the first step for us. And most of us on this
call from the congressional offices have
already sent a letter to both Secretary
Leavitt and Secretary Chao regarding this
subject.

The issue is then -- and maybe that’s
the appropriate piece because the Secretary of
Health and Human Services did, in fact,
support the issue of 250 days on the site
which was the recommendation. It’s included
in the orders from the Board or the direction
from the Board to the Secretary. So the
Secretary’s already approved it. So maybe
that’s where we need to really be, and that’s
where we’re at with the letter from the
respective members of Congress.

    DR. BRANCHE: I think that your issue really
    is with the Department of Labor. And if
    you’ve written your letter to Secretary Chao
    as well as a letter to Secretary Leavitt, then
    you’ve taken your issue to the right people.

    MS. EVAH: This is Beatrice from Senator
    Salazar’s office. I have just a quick
    clarifying question. Perhaps you can then --
    I understand the limitations of the Board, but
    perhaps you can try to explain what additional
    information DOL may have received, if not from
    you then from anybody, to make this sort of
    new bulletin, to issue this new bulletin.

    DR. BRANCHE: I think Mr. Kotsch should
    answer that question.

    MS. EVAH: You know, you had to have relied
    on some new information then, and it would be
    interesting to hear where that would have come
    from.

    MR. KOTSCH: This is Jeff Kotsch.
    Basically, we worked off of the NDPR report.
    You know, the report in the protocol and
    listings of the buildings in there.

    MR. GRIFFON: N-D-R-P, right?
MR. KOTSCH: I’m sorry. Yeah, I always invert the lettering.

MS. EVAH: NDRP?

MR. GRIFFON: This is Mark Griffon again. Anything more? Jeff, are you done? I’m sorry.

MR. KOTSCH: Yeah.

MR. GRIFFON: So was this DOL internally reviewing that and making their determination?

MR. KOTSCH: Well, I mean, we received that from NIOSH and discussed it with them as far as, because there was no, you know, that definition was somewhat open-ended or not very explicit as to how to determine who should, you know, who was monitored or should have been monitored for neutrons.

MR. GRIFFON: Right, and I agree with that. And my point, Christine, is only that the only way -- I have no reason, and I don’t think we, anybody, wants to reopen or do we have the power to reopen the SEC. But I think we do have an option of at least clarifying how, when we drafted that language, monitored or should have been monitored, I don’t think any of us intended that it include 250 days in
a single building, for instance.

So to the extent we need to clarify our language in our recommendation, and it’s still up to the Secretary whether they change anything or not. But I think we do have an opportunity, and I would say even a responsibility to do that.

DR. BRANCHE: You have an option to bring an issue to your fellow Board members for the Board uniformly to make a decision about what information, if there’s new information that comes to light, that clarification can potentially be sent forward to, as information from the Board. You cannot, you actually mentioned it, but, no, you cannot reopen the SEC. A new petition would have to be put forward.

MR. GRIFFON: I agree with that, so that’s all that I’m saying. And certainly, my notion is to bring at least at this point, at the Board meeting next week, I was just going to present a little timeline of what we’ve done on discussions in this in an update to the Board. I’m not even prepared, I don’t think we have any kind of recommendation to make at
this point.

But I think we at least need to bring our fellow Board members up to speed on what’s being discussed. And maybe the Board will say this is out of our, you know, there’s no need to take any further action. I would certainly be willing to discuss that with the full Board. I think we need to at this point.

**MR. ELLIOTT:** This is Larry Elliott. If I could I feel compelled to seek a point of clarification on something you just said, Mark, and I’ve heard others say. In a directive to Jeff Kotsch the phraseology having spent 250 days in one building, I think, is inaccurate.

Is that correct, Jeff? It’s not in one building. It’s in any of the buildings where neutron exposure would exist or would present itself to these workers.

**MR. KOTSCHE:** Yeah, this is Jeff. Yeah, that’s correct, Larry.

**MR. GRIFFON:** So any of the neutron buildings. Yeah, you’re right, Larry. That’s correct.

**MR. ELLIOTT:** So I don’t want folks on the
line to think that it’s just, you’ve got to get 250 days in one building. That’s not the case.

Also, I’d offer that the Board’s class definitions are structured in their language to say all of these types of workers who were monitored or should have been monitored for neutron exposures, that’s what the Board felt we had an inability to reconstruct.

And so when DOL takes -- and DOL, this definition and its structure and language was vetted with DOL with Pete Turcic at the meeting where the Board crafted this. And he said, yes, we can administer that. And we talked about the NDRP being a useful tool in administering that for those workers who were monitored or should have been monitored. That was the starting point.

So I felt I needed to say that because I think there’s a lot of misinterpretation about this class definition.

MR. GRIFFON: But, Larry, this is Mark Griffon again. And that’s correct, but also we clearly indicated that the reason we didn’t want to list a list of buildings in our
recommendation was that we weren’t prepared to
say it was only the buildings in the NDRP.

So that was sort of one of the
outstanding issues, and that’s one of the
reasons we left it open was we didn’t know all
those ins and outs. We didn’t know about this
potential for, you know, maintenance workers
from 334 also working in that building and
whether they would be in the NDRP. And I’m
still not clear on that.

So I agree with you that the 250 I’ve
been saying in a building, and it’s in any of
those buildings in the NDRP. But still I
would also say from a technical standpoint, I
don’t think that that agrees with our notion
of monitored or should have been monitored.
Should have been monitored says basically you
have the potential to receive 100 millirem of
exposure in any one year. And I don’t think
you need 250 days accumulated to receive 100
millirem necessarily. So that’s where I’m
stuck.

**MR. ELLIOTT:** I understand, and I don’t know
if Brant has his reaction to that or not.

**DR. ULSH:** No, I don’t want to get into the
250 day issue.

**MS. MUNN:** This is Wanda again. Mark, we all remember how carefully we attempted to craft that language so that it would be as broad as possible and without being limitless. We worked hard on it, and it may be that those few simple words which seemed reasonable at the time can use some improvement.

But if that’s the focus of our call today, then it would be helpful for me if we started down that road very clearly with the understanding that that’s the focus of our topic today. Because I’m sorry to say I’m traveling, and I’m time limited today.

**MR. GRIFFON:** I apologize, Wanda. We got a little sidetracked, but there’s several people on the call with several different perspectives. I mean, yeah, my focus is on that question of should have been monitored. How we phrased it versus how it’s being implemented and whether we, as a Board, need to clarify.

And I think to that end I tried to pull past transcripts. I know Brant has pulled up the NDRP Protocol. I think we
should look further at that and also this question of cases where it, reviewing cases where this may or may not have happened.

In other words the example I always use is someone from Building 334, because that seems like a logical one, the Maintenance Building, was assigned to that building. Their work history has that building listed, but they have either put in their CATI interview that they worked in these other buildings, and they’re not in the NDRP, or they had coworkers give affidavits that they worked in those other buildings, and they’re not in the NDRP.

That’s the kind of example that if it were true, that would raise concerns about the scope of how it’s being implemented. So I guess maybe at this point it’s a good time for Brant to give us an update on what NIOSH has looked into.

MS. BOLLER: Mark, can I ask one question first? It’s Carolyn.

MR. GRIFFON: It’s Carolyn? Sure.

MS. BOLLER: I have a letter in front of me from the Department of Labor addressed to a
particular family. And in the letter dated in November it basically says you’re going to get benefits. And we’re going to send you a check. And these happened to be survivors of a deceased worker who did not work in one of the listed buildings, the so-called neutron buildings, but was granted benefits and told that they would be receiving the dollars under Part B.

After the January memo, the Department of Labor came back and said we don’t show that you worked in any of these neutron buildings. Now, my question is in November, if, in fact, the Board’s decision and the discussion with DOL was that it should have only been in those buildings to begin with, then why was that approved in November, but then you rewrite a memo and send it out and then change the rules after that?

Does that make sense? It’s kind of a roundabout way, but if, in fact, the original theory was to only limit this to those buildings in which NIOSH had determined there were neutrons, then it should have been done from the very beginning, and it was not. It’s
true in the case I have from our folks in our
district, and it’s true in the Grand Junction
case that Erin spoke about.

So I’m not sure that that argument
holds water, but I think that I clearly
understand where the Board can and can’t go.
I guess what I would want is the Board to
write a letter supporting this 250 days on the
plant site and not in the specific building
if, in fact, they feel comfortable to make
that determination.

We’re going back to the Secretary of
HHS, and we’re going back to DOL. And we will
go further if we have to, but that’s kind of
where we’re at as we change the rules here.

**MS. (UNIDENTIFIED):** Again, Erin with
Congressman Salazar’s office. I understand
we’re at a point of time constraints and also
the scope of the Board has been emphasized
numerous times today. But from our office we
ask that if there’s an opportunity for you to
take some leadership on this issue that you do
so. Because as you all know, we’re all quite
familiar with each other. We’ve all been on
conference calls now for three years, and I
think we can all share that. So you can recognize that those of us on staff as well as all of you who’ve worked this issue, we know each other. We worked for this SEC. We did not get, the congressional delegation, what we thought the workers deserved, but what we did get, we’re going to fight to keep. And if you have an opportunity to assist in what’s the best interest of the workers, we would greatly appreciate that.

**MR. GRIFFON:** Appreciate the comments. I think I’m not sure we’re prepared to recommend any writing of a letter at this point. I understand the issue. I think we need to discuss through it more amongst our work group, but also I think at this point what I hope to at least complete today is maybe to get an update from NIOSH on what you’ve looked into so far, maybe clarify some of the excerpts in the transcripts. I think Brant did highlight some sections of the NDRP Protocol which I think he wants to focus on as far as who was monitored, that sort of thing. And then what I’d like to do at the upcoming Board meeting, because we only have,
you know, we’re going to be traveling this weekend, I want to just give an update of what we’ve done. If you remember back, we had a technical phone call with Margaret Ruttenber from the University of Colorado which in some ways, some of her data was used for a news story that sort of started some of this discussion.

So I want to track through what we’ve talked about and sort of where we’re at and bring it to the Board and say here’s where we are. Some issues may be completely DOL issues which are out of our charter to cover, but other issues -- I’d just open it up for discussion to our full Board rather than, because I don’t think we can make a work group recommendation at this point.

But Wanda, Bob or Mike, I don’t know if you have any thoughts on that.

(no response)

**MR. GRIFFON:** Assuming I didn’t lose the line, I don’t think I heard anybody reply. So maybe at this point, I mean, all this stuff came out recently, too. I have the excerpts that I sent around to the work group. I’m not
sure everyone had a lot of time to look
through those and consider them. I only sent
them out a few days ago. Everybody’s been
very busy on several different work groups.
Also, Brant sent the NDRP Protocol
just this morning. Maybe, Brant, at this
point if you can just give us an update on
what you’ve done since the last work group
call. There’s only been a few weeks, but what
you’ve done on looking at cases and explain
what, maybe help us clarify what the NDRP
Protocol, you know, the who was monitored
question.

MR. PRESLEY: This is Bob Presley. I’m with
you.

MR. GRIFFON: Okay.

Brant, are you on the line? Can you -

DR. ULSH: I’m still here, Mark.

MR. GRIFFON: Can you give us maybe an
update and then we can, because I think I
agree we’re probably not going to get much
further today. Just to get an update, and
then we can probably end the call there and
give an update to the full Board of where
we're at and maybe get some direction back
from the full Board whether they want the work
group to pursue anything else, anything
further. I want to bring this back to the
full Board and get direction from the full
Board.

NIOSH UPDATE

DR. ULSH: At the last working group call,
as you correctly remember, there were a couple
of action items. You were going to do the
transcripts. And on that call Arjun Makhijani
of SC&A thought that he might have an example
that would be pertinent to our discussion
about someone who may have been monitored or
may not have been monitored for neutrons and
were they not in the NDRP class.

Arjun did send me the information on
that case, and I checked and verified with
Mutty Sharfi’s help that that individual was,
in fact, included in the NDRP. So that was my
action item, that one particular example. We
have not as of yet --

MR. GRIFFON: Brant, I’m sorry. This is
Mark. Not to interrupt but we did bring up
the other, I mentioned the other case that was
identified by name in the newspaper and asked that you check that out, too, and I don’t know if you had a, did do that or not.

DR. ULSH: I can, but I don’t know how I should proceed here in terms of Privacy Act. I can, I know whether or not that person was included in the NDRP. Is that something that I can, I can say that?

DR. BRANCHE: As long as you don’t mention the name or the ^ you’re fine.

DR. ULSH: Okay, that person was not in the NDRP. We did not find any indication that they spent a considerable amount of time in any of the neutron buildings with the exception of there was a mention in the CATI — and I’m trying to recall this.

That’s the telephone interview with the survivor where, and this was a spouse, she said that he had gone into those buildings, but there was no specification about where in the buildings he went or how long he spent there to my recollection. I also looked through the associated records that we have, the dosimetry records, bioassay-type records, shop history, and there was nothing that
indicated that that individual worked in the neutron buildings.

**MR. GRIFFON:** This is Mark Griffon again. I may have this wrong but -- we have a lot of static on the line, too -- I may have this wrong but my recollection of the newspaper account of this case anyway is that they had signed affidavits from their supervisor saying that this individual was in those buildings.

**DR. ULSH:** Mark, I think that was --

**MR. GRIFFON:** Is that the same case? I may be confusing things.

**DR. ULSH:** Well, again, I’m trying to recall what the newspaper article said, but I do know that the basis of the statement in the CATI in the telephone interview was that the spouse had talked to some of the other workers, some of the claimant’s coworkers. And they indicated that, yes, they had gone into those buildings, ^ indicate how often or how much time they spent there or anything like, they didn’t give any further details.

**MR. GRIFFON:** Okay.

**MR. ELLIOTT:** If the affidavits were -- this is Larry Elliott. If the affidavits were
generated based upon a DOL recommended
decision or that part of the process for
determining their eligibility for the class,
we may not have seen those affidavits.

Yeah, that may be true.

DR. BRANCHE: Excuse me. If those of you
who are not speaking could please mute your
lines, it would be very helpful for us. We
have a lot of background noise including a
heavy breather. Thank you.

MR. GRIFFON: Thank you, Christine.
Go ahead, Brant. I’m sorry to
interrupt you.

DR. ULSH: No problem. So I think that goes
to your question about looking into specific
elements. And that’s really all I have to
offer about that. If you’d like, Mark, I can
talk to another issue which is related to your
messages, your e-mail messages of yesterday
and the attached transcripts and the NDRP
Protocol that I sent out again this morning.

MR. GRIFFON: That would be great. A little
refresher for people, yeah.

DR. ULSH: First of all, this discussion is
going to focus on who was or should have been monitored. It has absolutely nothing to do with the 250-day question. I’m afraid I don’t have any input to offer there.

**MR. GRIFFON:** That’s fine.

**DR. ULSH:** I think that the root of the problem here is that there might be some confusion between neutron monitoring and gamma monitoring. And I’m looking at the excerpt that you sent out, Mark. And I’m looking at the introductory paragraph there that you wrote, five or six lines down where it says, “also the notional dose is not only based on gamma dose multiplied by an NP factor, but” -- and here’s the part I want to focus in on, “in cases where there was no gamma data, a nearby estimate approach was used.”

I think there’s some confusion here, and I’d like to try to clear that up. And that’s why I sent out the neutron dose reconstruction protocol again. And as Mark mentioned, I did highlight some pertinent, well, at least what I judge to be pertinent parts of that document. And I’ll just walk through that briefly if I could.
And I’m looking at one of the sections that I’ve highlighted, and this is on page nine. Now, when I’m giving page numbers here, I’m talking about the page numbers that appear in the document. I’m not talking about PDF page nine just to make that easier. And I’m looking at Section 5.0 in there which is titled “Identification of Affected Workers”.

And it says, the second paragraph says, “A small portion of the total number of neutron worksheets represent the issue of neutron dosimeters to a few personnel whose home building assignment was a non-plutonium production building.” And there’s a list of those, and included in that paragraph, they’re including it in that list, is Building 34 which Mark explicitly mentioned earlier, and that was the Maintenance Shop.

And it says that these individuals primarily worked in non-neutron buildings but were routinely issued neutron dosimeters because they occasionally performed work activities in plutonium production buildings. And then there’s some examples of the job descriptions: guards, radiation monitors,
technical researchers and uranium process
operators.

So I’m not in any way arguing that
there weren’t people from other buildings who
occasionally visited the neutron buildings.
That was clearly identified in the NDRP
Protocol. That’s not an issue, and I’m not
trying to deny that. What I’m saying is that
this indicates that they were routinely issued
neutron dosimeters.

The next part that I’m looking at is
the next page at the very top. And this goes
to who was included in the NDRP. And starting
with the second line it says, “The rosters on
the beta-gamma worksheets for these buildings
were used to identify workers who would be
assigned a notional neutron dose if they were
not monitored for neutrons.” And I’m going to
be emphasizing that statement a couple of
times about whether we’re talking about
neutron or gamma monitoring because I think
there’s some confusion there.

MR. GRIFFON: And I think, Brant, you may
want to read that one line before you
highlight it, too, because the beta-gamma
sheets seem to be only from Building 21, 22, 23, not 34 in this instance.

DR. ULSH: Okay, hold on just a second.

MR. GRIFFON: Am I reading that correctly?

DR. ULSH: Well, let me start with the paragraph that we’re talking about just to make sure everyone has the appropriate context. The second source of names, this is names of people to be included in the NDRP, the second source of names was the beta-gamma worksheets for plutonium-related buildings. Only the beta-gamma worksheets from the plutonium-production buildings -- and that is in parentheses any building with a number starting with seven -- and Building 91 and 86. That’s the neutron buildings that are in the NDRP.

And the combined worksheets for Buildings 21, 22 and 23 were entered into the beta-gamma database. The rosters on the beta-gamma worksheets for these buildings were used to identify workers who would be assigned a notional neutron dose if they were not monitored for neutrons.

So, yes, Mark, you’re correct in that
Building 34 is not explicitly mentioned here. But I would refer you to the previous paragraph where I highlighted it, and it says that when workers from buildings such as 21, 22, 23, 34, 44, 81 and 86 visited the plutonium production buildings, they were routinely issued neutron dosimeters because they occasionally performed work activities at plutonium production buildings.

**MR. GRIFFON:** Again, I mean, you can interpret it that way. The question goes back, to the essential question goes back to I don’t doubt that these people that are on the neutron worksheets from these other buildings were monitored for neutrons. The question is were there some people that didn’t get onto that roster. Was it everyone or did they capture some but not all. That’s the question.

And I mean one thing we talked about at the last phone call, which that’s the reason I focused on the second paragraph, was that some people on the call mentioned that, well, everyone, you know, I can’t imagine people that wouldn’t have been monitored for
But the point is if they weren’t in those certain buildings that you listed in that second paragraph, they wouldn’t have even been considered to adjust gamma for neutron exposures. So unless they were on that neutron worksheets, they weren’t considered, if they were from Building 34, they wouldn’t have been considered.

DR. ULSH: It is certainly possible, Mark, that someone from another building could have visited a plutonium building, and if they were not judged to be a significant risk of neutron exposure, it’s possible that they may not have been issued neutron dosimetry. I will grant you that. I have no objection to that. Beta-gamma though is another story, and if I could read you some of the other highlights, I think I can make that a little clearer.

MR. GRIFFON: Right, I’m not arguing with the beta-gamma. But if they weren’t in the certain buildings, the beta-gamma is not even, those worksheets aren’t even considered in the NDRP, right?

DR. ULSH: The beta-gamma worksheets only
from the plutonium production buildings were
the trigger for inclusion in the NDRP but not
from other buildings. You are correct on
that.

MR. GRIFFON: Okay, go ahead. I’m sorry.

DR. ULSH: No problem. The next part that I
want to lead you to is on page 20, and I’ll
give people a few seconds to find that. It’s
Section 11.0, “Notional Neutron Doses”.

I’m looking at, Mark, your summary
paragraph on your excerpts here, and you’re
talking about the nearby technique. And you
mentioned that in cases where there was no
gamma data, a nearby estimate approach was
used. I don’t think that that is what is
indicated here. Let me read this one to you,
page 20, Section 11.0:

“Notional neutron doses are neutron
doses that are assigned to a worker who was
potentially exposed to neutrons in a
plutonium-related building for a period of
time but was not credited with a neutron dose
in his or her record for that period of time.
The lack of a neutron dose of record for a
period of time may have been the result of the
following conditions:” And there’s three bullets, the first two of which are the important ones.

“The worker was not monitored for neutrons but was potentially exposed.” The second bullet is, “The worker was monitored for neutrons, but the neutron dose could not be evaluated.” Now, if we look at the very next page it says that only for the first two conditions -- those two bullets I just read to you -- would a notional neutron dose be assigned.

And here’s the important part. “The index to identify the first two conditions is the presence of a recorded penetrating gamma dose in a plutonium-related building but no recorded neutron dose for that period of time.”

So, Mark, you’re talking about here how they assign notional neutron dose, and you said in cases where there was no gamma data the nearby estimate was used. That is, in fact, not the case. In order for a notional dose to be assigned they had to have gamma monitoring.
MR. GRIFFON: Yeah, I think I stand corrected on that, Brant. I think I was trying to do that from memory, not going back to the protocol.

DR. ULSH: I understand. There’s a lot of documentation here.

MR. GRIFFON: But part of what I think that maybe clarified me if I’m wrong on this, but I think they used a neutron-gamma, either a personal which would have been the nearby, their previous year neutron-gamma ratio or a building-wide neutron-gamma ratio and applied whichever was more conservative I think in some cases.

DR. ULSH: Not quite.

MR. GRIFFON: Not quite? Go ahead, I’ll let you continue then.

DR. ULSH: Okay, to assign notional neutron dose that covers gaps in neutron monitoring, they used a combination of two methods. The first one is the nearby technique that you mentioned. And that is taking an average of the measured neutron dose rates for that individual for when they have neutron monitoring, and applying it to that gap in
neutron monitoring. That doesn’t say anything about --

MR. GRIFFON: Not having gamma.

DR. ULSH: -- right. In fact, to identify that as a gap, they had to have gamma. That’s a prerequisite.

And the second method was the NP ratio method that you mentioned. They used a weighted combination of the two.

MR. GRIFFON: So I had it right except for the fact that it did ^ necessitate lack of gamma data, right?

DR. ULSH: That is correct, Mark. In order for a period to be identified as a gap, that is predicated on the presence of gamma monitoring. So there are not people who, for instance, came from Building -- I don’t know, let’s just say the Administrative Building -- who went into the neutron areas, the production areas of the neutron buildings.

It’s possible that, you know, I can’t say that they were all issued neutron dosimetry, but in order for them to be issued to be classed with a gap here and assigned notional neutron dose, that is predicated on
the presence of gamma dosimetry. So I think when we’re talking about gaps, we’re talking about gaps in neutron dosimetry. And that’s important because the trigger for entry into the NDRP is gamma dosimetry, not neutron dosimetry, but gamma dosimetry.

So the point that I’m trying to make here is that I don’t think you can read from any of the things that you’ve excerpted here or certainly from the NDRP Protocol, that there were people from other buildings who came in and were not assigned gamma dosimetry. It’s possible that they were assigned neutron, but not gamma.

**MR. GRIFFON:** Well, yeah, but I mean thank you for the clarification on that one thing. I still wasn’t sure that all the gaps that people had where they had notional dose assigned, they also had to have gamma measuring. So that is a clarification for me.

But it still, I don’t think it answers that one question. Your first paragraph alludes to the fact that, yes, there were some people came from other buildings such as 34 and into the plutonium buildings and were on
neutron worksheets. But the question remains whether that was 100 percent effective, I guess. Or they found some worksheets with other buildings on them, neutron worksheets.

So, yes, that certainly was evident that people from other buildings were in those buildings working and had some exposure to neutrons. That doesn’t necessarily say that the policy was 100 percent effective over all the years that we’re looking at. So that question remains in my mind I guess.

DR. ULSH: I understand, and I think that’s a valid question to ask.

MR. GRIFFON: Thank you for that, and I will -- just to let people know, I will modify my document to reflect Brant’s comments because that was a misstatement on my part. I was going by memory, and there is a clarification I need to make in that front paragraph. So I will edit that and get that out to everybody.

DR. ULSH: And, Mark, you raised an interesting question here, and it’s worth discussing I think. The excerpts that you’ve provided here from our discussions with Roger Falk and also to a more limited extent the
NDRP, do bear out what you said there about
the criteria, the monitoring criteria for the
plutonium production buildings. And
basically, it was anyone who was judged to be
at an exposure potential that would be ten
percent of the exposure limit was issued
dosimetry.

And it was, we recognize that
dosimetry, the dosimetry dose limits have
changed over the years, and that’s why when
the Department of Labor asked for our advice
about who was or should have been monitored,
NIOSH recommended that first of all include
everyone in the NDRP. I mean, that’s obvious,
everyone who’s listed. But also anyone who
was in a neutron building as listed in the
NDRP, but was not part of the, not explicitly
included in the NDRP.

Because can I say with 100 percent
certainty that someone who worked in an
administrative area of the building -- let’s
say 771 just for example -- never went into
the production area? No, I can’t say that.
Can I say that they didn’t have the potential
to receive 100 millirem in a year? That’s why
we recommended to take a more generous list to include in the class based on not just explicitly people who were explicitly included in the NDRP but anyone else who was in those buildings. That was the basis based on that concern.

MR. GRIFFON: But when you say in those buildings, Brant, I guess that’s the other question. How does DOL get to that? If they’re not in the NDRP, how do they get to that? They have work history cards that will say where they were assigned, like 334, but it may not, there’s no more data available to DOL anyway where they could determine if they were sent over to those neutron buildings, is there? Or am I missing something?

MR. ELLIOTT: I think Jeff would have to answer how DOL administers --

MR. GRIFFON: Okay, okay, I guess we don’t necessarily need to go down that path right now, but I mean, is there anything else just focusing on NIOSH’s records right now, is there anything else in the -- you have the job history cards, right, Brant? In the data we’ve looked at each person seems to have a
work history card with some indication of what buildings they worked in. Is that correct?

**DR. ULSH:** Yes, in general that’s... Mark, when I approach a case I’m trying to figure out where a person worked. You’re right. The first place I look is the job history card. And where we have that it’s very informative. There are job history cards present for employees of the main contractor, you know, the main operator of the site, and those are included as part of the NDRP. So that does provide a lot of useful information.

Some other things that I look at are the dosimetry records, the urinalysis records, because on those cards it lists what building a person worked in that resulted in them getting that sample. So we look there. I also look at the telephone interviews which, as you very well know, are more informative when we’re talking to the actual claimant, less so when we’re talking to a survivor. So those are some different sources that we can look at to make that kind of a determination.

**MR. GRIFFON:** So we’re not in disagreement there. It’s just a question of can we get to
an answer on when other people were in those buildings. And I did highlight the ten percent rule because -- and you readily stated that the regulations have changed over the years so ten percent of that time certainly would be higher than the 100 millirem that we’re judging it on now. Anything else to add, Brant, to the discussion at this point?

DR. ULSH: Well, Mark, the other highlights really just go to the point that I think I’ve already made, and that is about when we talk about gaps, we’re talking about neutron not gamma. But if I go through the rest of the highlights, it would just be repeating that.

MR. GRIFFON: No, that’s fine. I agree with that. I was going, as I said, by memory so that is fine, but it still doesn’t answer that question of those other, I guess that’s where we are is the remaining question of whether people could have a work assignment but been sent to these neutron buildings and missed in the policy of the time or in the protocols of the time.

DR. ULSH: I think we can safely say that there were people from other buildings who
were sent to the neutron buildings. We know that at least, well, in every case that we know about, we’ve looked, and they’ve got monitoring. However, I could easily see a situation where someone was sent to one of the neutron buildings, went into non-production parts of the building and was not monitored. I could easily see that. I mean, I don’t have a specific example in mind, but it makes sense.

**MR. GRIFFON:** Sure, sure.

**DR. ULSH:** Even by today’s standards I don’t know that that person would be required to be monitored.

**MR. GRIFFON:** I know. I know. I guess also we have to consider, at least the work group and the Board have to consider the level of where does the proof have to lie. I mean, is the onus on the claimant to prove -- and I’m going back to this one case that was in the news story, and Larry’s probably correct that these other affidavits probably came after the case was in DOL’s hands so they may not be in the NIOSH record.

But this individual’s not in the NDRP,
apparently has testimony from coworkers, from supervisors that they were in these buildings. And I guess going further than that they’re saying in the building more than 250 days. The original decision was to, at least my understanding is the original decision was not to have him in the SEC.

This is one individual who happens to have a lot of, the survivor has found several coworkers that are willing to, you know, that have memory of this and are willing to put affidavits out there for him. But the burden seems to be on the claimant I guess is my point.

And are all the other claimants going to have those kind of resources or know people that knew the person when they worked there and have a memory of it? So I guess that’s the question.

DR. ULSH: Mark, I can’t speak to all of that, but a couple of points of clarification. I haven’t seen the affidavits. I wasn’t specifically looking for them when I looked through the records, but I haven’t seen them. I’m not saying they don’t exist.
MR. GRIFFON: I think Larry’s probably correct. It might have gone to DOL as opposed to NIOSH.

DR. ULSH: Well, and a point of clarification, too, that I’m only going from what I read in the paper just like you. I don’t recall the newspaper saying anything at all about the 250-day question. It was silent on that. It didn’t provide any detail about how often or how extensive their work in those buildings was.

And now I’m thinking back to the CATI, the telephone interview, and again, just going from memory here, she said that she had talked to some of the coworkers, and that they, I believe, said that they had visited those buildings or had been in those buildings. But it didn’t provide any detail about how often or where in the buildings they went.

MR. GRIFFON: Yeah, and I was just trying to pull one of those stories up, but I can’t do this real-time. I think we need to look at this, at least look at that one a little closer if we can. But at this point what my feeling is from the work group’s standpoint to
lay out only the sort of timeline of what
we’ve been discussing without any of our
personal feelings as to which way things
should go.

And I will draft something up on
bullet points of what I would present as the
work group. I’ll circulate that to my work
group members before presenting it at the
Board meeting. But then I want to just turn
it back to the full Board and say what
direction do we as a Board want to take or
does the Board want the work group to do on
this issue. I think that’s where I feel we
should go with this.

I don’t know if Wanda or Bob or Mike,
you have any feelings on it.

**MS. MUNN:** This is Wanda. Can you hear me
okay?

**MR. GRIFFON:** Yeah.

**MS. MUNN:** I’m on a cell phone, and I’m
never sure. My personal feeling is that we
certainly should revisit the wording that is
of concern here. I have knocked it around in
my own mind several times and have not come to
the conclusion that there are any better words
that could provide the flexibility that we
must have for observing what transpires in
these claims and at the same time setting some
limits. I certainly would recommend that
everyone on the work group consider whether
that wording is inappropriate or not. I’m not
convinced that there are better words that
will get us any further down the line towards
specificity than what we already have. It’s
worth thinking about and certainly worth
talking about.

MR. GRIFFON: And I’ll commit to, like I
said, circulating within the next two days
some bullet points, and mainly just a timeline
of what calls we have had, what we have
discussed, and any if you could all just send
me comments back in track changes mode, I will
take those from the work group because I want
to just give an update from the work group. I
don’t want to, in this update I’m not going to
give my opinion.

I just want to ask maybe the Board
where we should go with this and what is
within our charter sort of to delve into as
opposed to, and maybe the Board says nothing,
says that we shouldn’t weigh in on this. It’s a DOL issue completely. I just want to bring this back to the full Board I think at this point.

**MR. PRESLEY:** Mark, I agree with you. This is Bob Presley.

I have one question for Brant. Do we have any information on what type of a job that the gentleman in question had?

**DR. ULSH:** When you say the gentleman in question, Bob, were you talking about the one in the newspaper?

**MR. PRESLEY:** Yes.

**DR. ULSH:** I don’t have that at my fingertips, but I think I can pull it out of the records if you’d like.

**MR. PRESLEY:** Okay. I mean, that might help, what job or what assignment this person had.

**DR. ULSH:** Yeah, I’ll take a look in his records again and let you know on that.

**MR. PRESLEY:** Thank you, sir.

**MR. ELLIOTT:** This is Larry Elliott. I hesitate to say this, but I think the **Rocky Mountain News** stories have been evolving or
revolving around two different sets, two different claims perhaps, the earlier one and the most recent one. So are we looking at both of these?

MR. GRIFFON: That could be what I’m confusing in my mind, too, Larry. That’s why I said I think I don’t want to try to do this in real-time trying to pull up the stories and review them while trying to have this discussion. So there were two mentioned, I agree.

MR. ELLIOTT: I think in order to --

MR. GRIFFON: And we can’t have names on here.

MR. ELLIOTT: If Brant’s taking on an action item here to look at the job title or the activity levels of the different worker that’s been reported in the news, we need to make sure we look at all of those that have been reported.

DR. ULSH: Mark, can you call me offline, off this call and let me know which one?

MR. GRIFFON: I will, Brant. I will.

DR. BRANCHE: Mark, before you close, this is Christine. I just want to clarify that,
just so it won’t be a surprise to you when it comes up next week if indeed you go forward with this in your update before the Board, your options again are, the Board’s options are few.

They can write a letter that clarifies information for the Secretary. You can talk about if there’s any new data that you think that NIOSH should consider. You can do that. And if you can talk about something that helps you in the guise of the Board learn something new for future decisions. But they’re very, very narrow parameters that you have available to you here.

**MR. GRIFFON:** Yeah, and I think I’m leaning toward if we do anything it would be that letter to clarify. But maybe you’re right, a dialogue of just to learn for our future recommendations might be useful. But, yeah, I agree with those parameters, Christine.

**DR. BRANCHE:** Whether you agree or not, they are the ones available to you. Thank you, Mark.

**MR. GRIFFON:** Is there anything else that we need to discuss today?
MS. BOLLER: This is Carolyn. Is Jeff still on the line?

MR. KOTSCH: Yeah, I’m still here.

MS. BOLLER: Jeff, is there a way that we can get from you a list of, not necessarily by name, but numbers of cases that we are talking about that would be -- I don’t know what the term would be, but like I’ve got this case that I don’t think you all have yet, which I would be glad to send over to Mark or to you if you don’t have one. But how many cases are we talking about that would be affected by this requirement that they will have worked in the building for some period of time?

MR. KOTSCH: I’m just trying to think. I don’t know how -- I’m just trying to think how we would put a number on that because we would have to look at each case individually to determine that. You know what I’m saying? We’d have to count ^ anyway. The outside population is the population of all Rocky Flats claims that have been denied to date kind of thing.

MS. BOLLER: Yeah, is there a way you and I can talk offline about this? Can you give me
a phone number?

MR. KOTSCH: It’s 2-0-2-6-9-3-0-1-8-8. I can at least pass the information on to people that can give us the answer.

MR. GRIFFON: Thank you, Jeff.

Thank you, Carolyn.

I think we’re ready to close today unless anyone had anything more for today.

(no response)

MR. GRIFFON: Again, I will give bullet points, a brief presentation for the Board, and I’ll circulate those to work group members just for your edits.

MS. MUNN: That will be very appreciated, Mark, thank you.

MR. GIBSON: Mark, that’d be good.

MR. GRIFFON: All right, thank you everyone.

I think we’re going to adjourn today.

(Whereupon, the working group meeting concluded at 12:30 p.m.)
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 April 3, 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 28th day of November, 2008.

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