

1 neck when the dosimeter is filtered, blocked or
2 not pointed (break in transmission) toward the
3 approaching beam. This practice resulted in
4 exposures that were unmonitored, inadequately
5 reported.

6 One additional point that I would like to
7 (break in transmission) of the Advisory Board
8 is the Sandia, California site profile, and
9 this is very important. The evaluation report
10 refers to the -- the amended evaluation report
11 refers to the profile (break in transmission)
12 circumstances. NIOSH has acknowledged that all
13 of the exposure data for one member of the
14 class is missing. It stands to reason that if
15 this data is missing, then it wouldn't be
16 included in the profile. Why access the site
17 profile.

18 Exhibit 15 (break in transmission) of the
19 appeal, it is not a (break in transmission)
20 fair practice as the law so states to refer to
21 the document that doesn't contain the exposure
22 (break in transmission) question. Furthermore,
23 it is (break in transmission) fair practice to
24 utilize exposure data of another individual to
25 determine exposure of another individual. My

1 job duties may have been similar, but not
2 performed to the same degree as my successor.
3 During my tenure in this X-ray laboratory I
4 utilized the X-ray machines (break in
5 transmission) often and for longer periods of
6 (break in transmission).

7 Exhibit 16, I mention this because if my
8 workload was greater it stands to reason that
9 my exposures would have been greater. Once
10 again, sufficient information (break in
11 transmission) lacking to find a precise dose.
12 (Break in transmission) I am currently working
13 (break in transmission) and many other Sandia
14 retirees to bring the Sandia, California site
15 profile up to date so that it will accurately
16 reflect the working conditions (break in
17 transmission) that I can (break in
18 transmission).

19 Exhibit 17, the class is requesting that this
20 document be given adequate time to be reviewed,
21 updated and not be referenced until former
22 employees are given the right to update its
23 contents. After all, it was these former
24 employees like myself (break in transmission)
25 the environment in which they worked.

1 Referencing data from an inaccurate, incomplete
2 document would unfairly judge a sick
3 applicant's dose exposure and medical condition
4 and ultimately jeopardize his or her EEOICPA
5 claim.

6 Now we are all aware that the Advisory Board's
7 expert (break in transmission) -- and I didn't
8 put these words in. I'm just quoting them from
9 the information I received. We are all aware
10 that the Advisory Board's expert contractor,
11 San-- Sanford Cohen & Associates, has
12 identified many concerns with NIOSH's
13 approaches. Specifically, SC&A stated that it
14 has concern over NIOSH's ability to implement
15 the stated methods, approaches and coworker
16 models to enable dose reconstruction with
17 sufficient accuracy as provided in 42 CFR Part
18 83. Even Shelby Hallmark, the DOL (break in
19 transmission) Assistant Secretary for the
20 Office of Workers Compensation, publicly
21 criticized the validity of dose
22 reconstructions. Mr. Shelby (sic) is concerned
23 that with the development of new coworker
24 models, added adjustment factors, creation of
25 new technical guidance documents, et cetera,

1 the EEOICPA process has gotten far too
2 convoluted to allow accurate dose
3 reconstruction. The Associated Press cited
4 strategies by adjusting a -- adjusting (sic)
5 agencies to contain the growth and benefits
6 under the EEOICPA program. More pointed
7 criticism (sic) comes from our elected officials.
8 For example, Representative John Hostettler,
9 Indiana, at the December hearing of the House
10 Committee on Immigration and Border Security
11 (unintelligible) cited memos and e-mails
12 showing that DOL (break in transmission)
13 pressuring NIOSH to limit claims. Now
14 Congressman Tom Udall stated that the agencies
15 appeared to have assembled small bureaucratic
16 empires, spending millions to devise a maze of
17 regulations that ensure that hundreds of people
18 enjoy (unintelligible) and prosperous career
19 administering the pro-- this program. And
20 there are more comments from high-ranking
21 officials regarding the validity of the
22 program. Rest assured I did not make these
23 comments (break in transmission) and do not
24 want to stoop to this level to prove my point,
25 but it is this type of correspondent that

1 reinforces the fact that dose reconstructions
2 are being improperly computed. No wonder sick
3 applicants are stating appeal after appeal and
4 seeking legal (break in transmission)
5 assistance. At what point will Congress
6 recognize the fact that administrative costs
7 vers-- versus the benefits are way out of
8 proportion.

9 Please hold on one second.

10 (Pause)

11 Okay, I'd like to continue. I'm almost done.
12 Bear with me. Thank you for listening.
13 Sick claimants represent a class of people who
14 have put their lives on the line during their
15 employment at nuclear facilities throughout the
16 United States. These people jeopardized their
17 health and safety while being exposed to
18 radioactive and toxic substances so that the
19 United States could research, fabricate and
20 maintain their nuclear deterrent. I was part
21 of that. I am proud of that. These sick
22 applicants performed the job that was asked of
23 them. They worked in these laboratories for
24 their families, their coworkers, their friends,
25 and all who enjoy the freedom of living in the

1 United States. For all those listening, this
2 includes you, too. Some are grateful; some
3 take their freedom for granted. And then you
4 have some, namely those individuals response
5 for adjudicating (sic) worker claims, instead of
6 supporting the individual who become ill after
7 working in nuclear (unintelligible) are
8 choosing to make it extremely difficult for
9 these sick applicants or their survivors to
10 obtain the benefits they rightly deserve.
11 Numerous people who are aware of my medical
12 condition, including some former supervisors,
13 have all asked me three simple questions. Do
14 you think your illness was caused from your
15 radioactive work exposure? Two, if you had to
16 do it over again, would you still work in the
17 nuclear industry? Three, knowing what you know
18 now about your exposures, do you think that
19 your radioactive exposures could have been
20 prevented?

21 I would like to answer these three because I
22 get these questions all the time. Question
23 number one, do you think your illness was
24 caused from your radioactive work exposures?
25 The EEOICPA program has placed the burden of

1 proof on the sick applicant. I personally have
2 done my research and I obtained the supporting
3 documentation from coworkers, doctors, et
4 cetera, and presented the facts supporting the
5 Congressional intent of an SEC. Yes, I am
6 confident my disease stems from my radioactive
7 work exposures.

8 Question number two, if you had to do it over
9 again, would you still work in the nuclear
10 industry? Let me answer this by saying, you
11 know, I raised children and now I have
12 grandchildren. I get all choked up here,
13 sorry. Excuse me. My parents raised me.
14 Their parents raised them. Our ancestors --
15 hold on one second, please.

16 (Pause)

17 Our ancestors were willing to take a stand.
18 They would stand up and fight. Whether they
19 fall in the battlefield or in the laboratory,
20 they backed the good old -- they backed the
21 good old USA and what it stood for. I am
22 thankful that our ancestors preserved and paved
23 the way for all of us and those yet to come.
24 The answer to this question is definitely yes,
25 I would in the nuclear industry again.

1 Former Sandia employees won their battle in the
2 laboratory. They are extremely proud of their
3 accomplishments, and that is something no one
4 can strip them of. Regrettably, many are
5 currently sick, like myself, and many have
6 died. Whether the adjudating (sic) agencies
7 listen to scientific reason now or later, those
8 sick applicants that are confident that their
9 illnesses were attributed to their work
10 exposures will continue to appeal their EEOICPA
11 claims until the adjudating (sic) agencies
12 process these claims as Congress and the
13 President intended. Until that happens, we as
14 a nation are stripping ourselves of our
15 integrity. In the opinion of this working
16 class, and I'm sure other SEC classes would
17 agree, it is vitally important that adjudating
18 (sic) agencies and sick applicants and/or their
19 families all play this game by the same set of
20 rules. I do not believe we are playing by the
21 same set of rules.

22 And the third question, knowing what you know
23 now about your exposures, do you think that
24 your radioactive exposures could have been
25 prevented? Without a doubt, I would answer

1 this question yes. If I had worked in another
2 (break in transmission) laboratory, the chances
3 of being exposed to the degree I was exposed
4 would have been significant reduced. To do it
5 over again today, I wouldn't have been exposed
6 to the degree that I was back in the Cold War
7 era, the reason being nuclear workers these
8 days are protected by much stricter and (break
9 in transmission) exposure guidelines. If these
10 guidelines of the Cold War years were adequate,
11 why were they changed?

12 One health physicist recently told me, by
13 today's standards, the exposures in those days
14 would have been sufficient to set the stage for
15 health endangerment.

16 This leads me to the last exhibit, number 18.
17 I'm requesting that this statement be submitted
18 to my dose re-- exposure record. If you want
19 his notarized affidavit and qualification, I'll
20 be happy and delighted to submit his statement
21 into the record also.

22 In summary, the facts supporting the
23 Congressional intent of SEC 00059 have been
24 presented to NIOSH and now the Advisory Board
25 knows them as well.

1 Four things that I know for sure. Number one,
2 I have a chronic type of cancer, non-Hodgkin's
3 lymphoma.

4 I am confident -- number two, I am confident my
5 non-Hodgkin's lymphoma stems from my
6 radioactive work exposures.

7 Number three, this petition is valid. The
8 evidence presented adequately supports SEC
9 00059.

10 And number four, I do not agree with the
11 conclusion of NIOSH that they can perform a
12 dose reconstruction to any degree of accuracy
13 based on all of the above that I have
14 mentioned.

15 Finally, please be informed I am sick and I am
16 dying, and right now I feel pretty stupid that
17 I even contacted (sic) cancer. But I would
18 feel even more stupid if I did not set the
19 record straight before I move on to meet my
20 Maker. At my graveside I want it said that
21 Gerry was a good husband, a good father, and
22 someone who took a stand for principle to right
23 a wrong.

24 I worked under government contracts for 20
25 years. To the best of my ability, I was a good

1 steward of taxpayers' money. I'm extremely
2 proud of my tenure at Sandia. If the adjudicating
3 (sic) agencies had acquired precise exposure
4 details and processed my claims, Part E, Part B
5 and this SEC, with honesty, integrity and the
6 respect for the individual, I would have
7 accepted that. The Advisory Board now has in
8 its power to take a first step and tell
9 Congress (break in transmission) an injustice.
10 We must amend this program and right this
11 wrong. Hopefully the nine people who are on
12 the distribution list of this letter will take
13 action and contribute, to the best of their
14 ability, to res-- resolve the inequities of
15 this program.

16 I am personally loca-- looking forward to
17 resolving this matter without too much more
18 time and expense. Please note, though, that
19 there are other inaccurate statements within
20 the addendum evaluation report that I would
21 like to correct for the record. These
22 additional corrections could very well have an
23 impact -- a positive impact on the SEC. These
24 will be formulated and mailed as soon as I have
25 a chance to update them.

1 Thank you to everyone for allowing me the time
2 to, one, request an appeal to NIOSH decision
3 that they have accurately reconstructed the
4 dose. And two, request an audit of NIOSH
5 methology (sic). On behalf of the working
6 class and all sick applicants, this is Gerald
7 Giovacchini. Thank you all for listening. If
8 you have any questions, I will state them.

9 **DR. ZIEMER:** Thank you very much, Gerald. We
10 know it was very difficult for you to relate
11 some of that information and we appreciate your
12 input.

13 Board members, it is now the lunch hour. I
14 think we do need to go ahead and take our
15 break, and following the break we will have a
16 discussion of this petition and determine a
17 path forward on it. But let's take -- we have
18 an hour for lunch. Actually the time is
19 squeezing past us already, but get back as
20 quickly as you can and we'll try to reconvene
21 as close to 1:15 as we can. Thank you very
22 much.

23 (Whereupon, a recess was taken from 12:23 p.m.
24 to 1:40 p.m.)

25 **DR. ZIEMER:** We're ready to reconvene. Just

1 prior to the lunch break we had heard from the
2 SEC petitioner for the Sandia petition which
3 involves the X-ray diffraction workers. Board
4 members, this SEC petition and the evaluation
5 report now are open for discussion and/or for
6 any appropriate motions.

7 Josie.

8 **MS. BEACH:** I have an ap-- I have a question
9 for Sam on the urinalysis data. Was that done
10 in-house or by an outside laboratory?

11 **DR. GLOVER:** It would depend on the time frame.
12 I believe those were in-house data, but I
13 couldn't give you a clear answer. I don't
14 think that was out-- out-sourced.

15 **MS. BEACH:** Okay.

16 **DR. GLOVER:** But I don't know off -- I can't
17 give you the date.

18 **MS. BEACH:** Can you -- can you let me know if
19 it was out-sourced, though, at some other time?

20 **DR. GLOVER:** Sure.

21 **MS. BEACH:** And the reason I'm asking is the
22 question for the S-- or the CEP labs.

23 **UNIDENTIFIED:** (Off microphone)

24 (Unintelligible)

25 **DR. GLOVER:** No, that's outside that scope.

1 **MS. BEACH:** It is outside? Thank you.

2 **DR. GLOVER:** And this is Sandia Livermore, not

3 --

4 **MR. GRIFFON:** Right.

5 **DR. GLOVER:** -- versus Sandia Albuquerque.

6 **MS. BEACH:** It wasn't clear in the documents I
7 read so I was --

8 **DR. GLOVER:** Okay. Sorry about that.

9 **MS. BEACH:** Thank you.

10 **DR. ZIEMER:** Further comments? Yes, Jim
11 Melius.

12 **DR. MELIUS:** I -- I have a question. Have we
13 received the information that the petitioner
14 referred to in his phone call? He referred to
15 a letter and a number of appendices, and...

16 **DR. ZIEMER:** I -- I don't think that I've seen
17 the material that he's referred to. I'm not
18 sure, Sam, even whether you have -- or LaVon,
19 can anyone help us out?

20 **MR. RUTHERFORD:** No, I -- I don't believe we've
21 re-- we've received a package that he's
22 identified, no.

23 **DR. ZIEMER:** Is this -- somebody help me out on
24 -- sort of in terms of the rules of engagement.
25 Normally is the petitioner allowed to submit

1 supplementary information after the ER, or --
2 or... I'm sort of asking whether we're
3 obligated to wait for such information. I
4 don't think under the rules that that's
5 permitted, but --

6 **DR. MELIUS:** Well, I -- I -- I don't know what
7 the rules are, but certainly our practice has
8 been --

9 **DR. ZIEMER:** Well, I know --

10 **DR. MELIUS:** -- and that -- since some of
11 that's always -- actually som-- some of the
12 information today was in response to, you know,
13 a new report -- an addendum report from NIOSH,
14 I mean I don't think there'd be an issue with
15 it.

16 **MR. RUTHERFORD:** Yeah, I'm not going to say
17 anything about what Dr. Melius said, but I
18 think what the rule says is -- and I agree with
19 what Dr. Melius said, we haven't exactly
20 followed that -- the rule -- and our legal team
21 can correct me if I'm wrong. The rule says
22 once that a petition has been submitted to the
23 Board, if the person wants to provide new
24 information, that would be provided in a new
25 petition.

1 **DR. ZIEMER:** I -- I guess one of the questions
2 is is the petitioner allowed to provide
3 information in response to the ER itself. I
4 think probably we have allowed that, just as we
5 have allowed additional input from -- from
6 NIOSH and from the contractor. So I'm not
7 sure, in terms of the strict interpretation of
8 the rule; but in general we've been fairly
9 flexible on that. I think we leave it to the
10 Board whether you want to see those exhibitions
11 (sic). And if so, that would require delaying
12 action on this. Or do you feel you have
13 sufficient information now?

14 NIOSH has indicated that -- that they can bound
15 this dose with sufficient accuracy. The
16 claimant doesn't agree with that, apparently.
17 So what is -- what is your pleasure?

18 **DR. MELIUS:** Well, I mean I'll -- I mean -- if
19 I understand your question, Dr. Ziemer -- I
20 mean I would certainly like to see the
21 information and be ab-- be able to review it if
22 it's -- you know. And I believe it --
23 petitioner said he would make it available to
24 us. I thought he had, that's why I was asking.
25 I thought maybe it -- something had come in and

1 (unintelligible) --

2 **DR. ZIEMER:** I'm not aware that we have it, so
3 -- I've certainly not seen it. NIOSH
4 apparently has not seen it. Certainly as a
5 courtesy to the petitioner, why, we can delay
6 action if you so wish.

7 **DR. GLOVER:** Just to be clear, in -- in the
8 report I -- you know, there was a series of --
9 he provided additional information back in
10 April 25th, and then immediately before the
11 Board meeting he provided information in the
12 conference call and additional affidavit last
13 week that -- they were all taken into
14 consideration as part of this. I believe this
15 is all new information -- or not new,
16 necessarily, but a separate packet that he's
17 prepared in response to this supplement ER
18 report.

19 **DR. MELIUS:** Yeah -- yeah, I was trying to
20 figure this out as he was speaking and -- and I
21 believe some of that -- most -- mu-- much of
22 what he's referring to was in -- though some
23 referred -- he did refer back to some earlier
24 stuff that I think you had considered. And one
25 reason I wanted to see it was I was confused by

1 some of the -- what was new, what was old and -
2 - and make sure we understood the points
3 (unintelligible).

4 **DR. WADE:** I do think, from my perspective,
5 this Board has always operated on the premise
6 that it wants to have all of the information in
7 its possession and that it wants to make the
8 appropriate decision. So I don't know that
9 waiting for information is necessarily at all
10 out of character for this Board. Whether or
11 not you think that information would sway you
12 or not, that's a judgment you can each make.

13 **DR. ZIEMER:** So appropriate actions, one motion
14 would be to defer action until the material has
15 been received and we have a chance to review
16 it. Another possibility would be to make a
17 motion either to accept the NIOSH
18 recommendation or a motion to reject it, and --
19 there's three possibilities there. So the
20 Chair's open to some sort of motion to get
21 things moving.

22 Phil, do you wish to make a motion?

23 **MR. SCHOFIELD:** Yes, I do. I'd like to make a
24 motion that we postpone a decision on this
25 until we do see -- receive the documents from

1 the claimants.

2 **DR. ZIEMER:** Okay, is there a second to that
3 motion?

4 **DR. POSTON:** (Off microphone) (Unintelligible)

5 **DR. ZIEMER:** The motion's open for discussion.
6 Okay, Dr. Melius.

7 **DR. MELIUS:** Well, this -- I'm not -- this may
8 be out of order, but the question I also have
9 that's related to that is do we want to ask
10 SC&A to review some of this information. I
11 would -- we do have a category called a
12 targeted review, and I think there are a few
13 issues that could be addressed that would not
14 require a lot of time, though frankly, some of
15 that would -- may depend on some -- what those
16 issues are may depend on us seeing this
17 submission from him.

18 **DR. ZIEMER:** Let me partially respond to that.
19 I -- I think we also have to be cognizant of
20 the use of resources in terms of -- this, in
21 effect, is a one-person petition, and I'm a
22 little concerned about how much resources we
23 spend on a one-person petition. Not that it's
24 not an important petition, but as opposed to a
25 -- you know, a group of several hundred

1 petitioners where the level of effort from the
2 contractor may be relatively substantial.

3 Let's hear from others. Wanda?

4 **MS. MUNN:** We've had a significant amount of
5 information provided to us, both by the
6 petitioner and by NIOSH. It does not seem
7 reasonable that this Board would need to
8 involve our contractor further in investigating
9 what we have already seen and what is certainly
10 going to be well-covered by our postponement in
11 order to review the additional information the
12 petitioner has asked.

13 **DR. ZIEMER:** Okay. Other comments?

14 **DR. MELIUS:** Yeah.

15 **DR. ZIEMER:** Jim?

16 **DR. MELIUS:** I guess I'm -- I'm very leery, Dr.
17 Ziemer, of using a cost-benefit analysis to
18 apply this. I mean I -- and I'll actually --
19 think that NIOSH did an excellent job of, you
20 know, putting an appropriate amount of
21 resources into this. They -- they've done two
22 -- two reports now and -- I mean I -- it's a
23 fact there's three -- we have another petition
24 coming up that we -- covers one person or
25 something and -- difficult. But at the same

1 time, if there are, you know, valid technical
2 issues that -- that need to be addressed, then
3 I -- I think they should be addressed
4 regardless of the numbers of people involved.
5 Does that mean that we spend millions and
6 millions of dollars? No. But -- which is why
7 I suggested they partially -- suggest a focused
8 review as -- as a possibility. I'm -- again,
9 I'm not sure we're ready to make that decision
10 now nor to know what to focus on now 'cause I -
11 - I would -- personally would like to see the -
12 - while -- what's been -- will be submitted
13 from the petitioner, but I think we just need -
14 - a little bit careful of using the cost of
15 something as being the -- the driving force
16 here.

17 And I would also add that I don't think that
18 Congress intends us to, you know, have some
19 ceiling as to whether -- where we would -- in
20 terms of the use of our contractor to do -- do
21 technical reviews. And if we --

22 **DR. ZIEMER:** Well --

23 **DR. MELIUS:** -- if there's not enough money,
24 then we should be asking for more. We should
25 not be trying to ration this amount out. It

1 does not mean we don't use that resource
2 appropriately and wisely, but...

3 **DR. ZIEMER:** Well, one of the -- let me
4 indicate that I don't disagree with that.
5 However, I was cautioning us that we do
6 nonetheless have to be cognizant of the
7 judicial use of our resources. They are not
8 unlimited, and I was simply cautioning the
9 Board to take that into consideration. When I
10 said the fact that it was one person does not
11 make it unimportant, I was hoping to convey
12 that part of the message. But nonetheless to
13 be cognizant that we at the same time have a --
14 and it's not necessarily a money resource. We
15 have some -- also time constraints for our
16 contractor which, in many respects, are equally
17 as important. So I simply caution the Board to
18 be cognizant of those constraints 'cause
19 neither the time nor the money is unlimited.
20 If we -- if we decide that this is worth
21 pursuing, I don't object to that at all. I
22 just want us to be -- on any of these, whether
23 it's one person or 500 -- to make sure that we
24 actually need the assistance of the contractor
25 before we make -- or task them to do that. And

1 you may be right, we may want to see these
2 documents first and then make the decision at
3 that point. I'm certainly personally a little
4 reluctant to make such an assignment without
5 having some idea of what -- well, we have an
6 idea of what's in these documents --

7 **DR. MELIUS:** Yeah.

8 **DR. ZIEMER:** -- but it's a little vague without
9 having them. Okay. So I don't think we're in
10 basic disagreement there, I --

11 **DR. MELIUS:** No.

12 **DR. ZIEMER:** -- just want us to -- not to
13 approach these things as if things are
14 unlimited, either in time or resources. Yes,
15 we'd like to have more resources and more time,
16 and probably more people.

17 Okay, Wanda.

18 **MS. MUNN:** Because this particular petition
19 addresses, in many ways, an entirely different
20 set of circumstances than what we work with
21 usually, it's clear to me that the agency has
22 spent a great deal of focused energy on
23 identifying what the salient points are in the
24 petition and has tried to outline those to us,
25 I think very well. I continue to feel that we

1 have a good explanation of what's in the
2 documents and where NIOSH can go with those.
3 Certainly reviewing the petitioner's documents
4 is well within our purview and will be
5 appreciated. The information that we've
6 received seems to be clearly adequate -- should
7 be for most --

8 **DR. ZIEMER:** Well, are you speaking against the
9 motion to postpone to get the documents from
10 the petitioner?

11 **MS. MUNN:** No --

12 **DR. ZIEMER:** No?

13 **MS. MUNN:** -- I'm not.

14 **DR. ZIEMER:** Just cautioning us about what
15 happens after that, perhaps.

16 Any others, pro or con? The motion before us
17 is to postpone action until we have a chance to
18 review the petitioner's additional documents,
19 as described in his presentation.

20 Yes?

21 **MR. GRIFFON:** Yeah, I'll -- I'll speak in -- in
22 support of the motion, but I -- I just wanted a
23 clarification -- I see one -- one case affected
24 by this petition, but I thought I heard three
25 and I'm -- I'm -- I'm -- maybe I'm confused as

1 to -- somebody could help me out there.

2 **DR. GLOVER:** There are -- I have -- one thing I
3 -- this -- as we get to the oneness and
4 singularity, we begin to be careful about
5 Privacy Act stuff --

6 **MR. GRIFFON:** Yeah.

7 **DR. GLOVER:** -- and so I have to be careful on
8 what we -- and how I couch presentation
9 materials, and I did want to caution the Board
10 as we review data, many of the things that he
11 spoke to were discussions about his particular
12 experiences and the singularity of his
13 experience. And so --

14 **MR. GRIFFON:** But (unintelligible) --

15 **DR. GLOVER:** -- it does -- well, the class is
16 three people who operated the X-ray diffraction
17 equipment and X-ray fluorescence in those
18 areas. They were in a later time frame, some
19 of the other people, and so there are numerous
20 --

21 **DR. ZIEMER:** Potentially there are three
22 individuals in the class. Is that what I'm
23 hearing?

24 **DR. GLOVER:** But not who were part of the
25 incidents involved as stated. I try to be

1 generic --

2 **MR. GRIFFON:** Yeah.

3 **DR. GLOVER:** -- in this.

4 **MR. GRIFFON:** And then -- and then as I'm
5 looking at the uranium urinalysis, then -- then
6 that -- obviously the -- the raw results that
7 I'm pulling up here in the reference that you
8 had in your evaluation report includes uranium
9 data from various areas, obviously, 'cause
10 there's more than three people. There's --
11 there's ten -- at least tens of people that are
12 covered in there, and I think it looks more
13 like 40 or 50, you know, people in the uranium
14 urinalysis raw data.

15 **DR. GLOVER:** Well, for this partic-- you're --
16 all the data from the class -- we have uranium
17 data for all members of the class. Those were
18 not specific to -- in the individual person.
19 All data was less than the MDA.

20 **MR. GRIFFON:** Right.

21 **DR. GLOVER:** I think I can -- so -- but that --
22 not (unintelligible) one person's data.

23 **MR. ELLIOTT:** Again, we're trying to be very
24 careful here and protect the privacy of an
25 individual, but I believe that this -- this

1 petitioner had time outside of this class
2 definition. Is that correct, Sam?

3 **DR. GLOVER:** Yes.

4 **MR. ELLIOTT:** And so that urinalysis applies to
5 other employment and exposure experience that
6 he had.

7 **MR. GRIFFON:** Okay. But -- I -- I guess what
8 I'm getting at is -- and -- and understanding
9 the class, there's a -- a reference in the
10 evaluation report that -- I think it's --
11 anyway, it's one of your last on your reference
12 list, uranium bioassay results, '65 through '90
13 or something like that. Clearly, when I look
14 through all that raw data -- I don't know that
15 you've put this in any kind of spreadsheet
16 format, but when I glance through it, there's a
17 lot of -- a lot of -- more than three and
18 probably, like I said, 40 or 50 individuals.
19 But they wouldn't have been in this particular
20 facility. Right?

21 **MR. ELLIOTT:** Were not in that X-ray
22 diffraction unit.

23 **MR. GRIFFON:** Okay. Okay.

24 **MR. ELLIOTT:** That's -- that's the distinction
25 --

1 **MR. GRIFFON:** So you -- you didn't parse that
2 document out to support this evaluation re--
3 right? All right. I -- I think I understand
4 now. It's broader than just that facility.

5 **MR. ELLIOTT:** Yes.

6 **MR. GRIFFON:** Okay.

7 **MR. ELLIOTT:** These are --

8 **MR. GRIFFON:** When I glanced at it, I --

9 **MR. ELLIOTT:** We do individual dose
10 reconstructions that are based upon the
11 circumstances of experience and exposure that
12 an individual had. And so when we start
13 talking about a --

14 **MR. GRIFFON:** Yeah.

15 **MR. ELLIOTT:** -- singular class member, that's
16 where we get -- that's where it leads us to
17 talking about those circumstances, and that
18 becomes very difficult in a public forum
19 because of the Privacy Act. So I think you've
20 got it. I think you understand that the
21 uranium urinalysis is representative of
22 exposure outside of the class definition.

23 **MR. GRIFFON:** Okay.

24 **DR. ZIEMER:** Thank you.

25 **DR. MELIUS:** I --

1 **DR. ZIEMER:** Another comment, Jim?

2 **DR. MELIUS:** Yea-- yeah, I mean one of the
3 other reasons that I suggested having a -- a
4 focused review is -- is because of this very
5 difficulty. There's some questions I have that
6 I can't ask here, or at least they -- NIOSH
7 can't answer here -- here in public because of
8 the -- the small number of -- of individuals
9 involved and -- and so forth, and I think some
10 of the pursuit of some of these technical
11 issues involve privately -- information
12 involving individuals and -- and so I'm trying
13 to think of a way of -- that we can pursue this
14 that doesn't -- al-- allows us to answer some
15 of these technical issues, but -- you know, can
16 -- can do it, not -- not in a -- a public
17 forum. Now there's a possibility of a
18 workgroup. There's a possibility of just doing
19 that -- that in-- that individually. I -- I
20 would suggest that the -- I would certainly
21 speak in favor of the motion to postpone. I
22 would suggest that we maybe talk about this at
23 our -- I believe it's December --

24 **DR. WADE:** December 6th.

25 **DR. MELIUS:** -- phone call and just try to

1 resolve a -- what the way forward will be. By
2 that time hopefully we will have seen the
3 additional information and -- and we can reach
4 a resolution.

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

6 **MS. MUNN:** It would be wise, I think, for every
7 member of the Board to make sure they've had an
8 opportunity to read all the current existing
9 documents on this prior to that phone call. It
10 is the belief of some that those documents will
11 contain the answers to the questions that
12 people want to pose, if they are read
13 carefully. Most of us I think have an
14 opportunity only to scan these things when they
15 come to us. Since this has become an issue, it
16 would behoove us all to take careful care, read
17 it, and be prepared to see if we still have the
18 same questions when we make our phone call.

19 **DR. ZIEMER:** Thank you. Other comments or
20 recommendations? Okay, Larry, you have an
21 additional comment?

22 **MR. ELLIOTT:** I just want to make sure that
23 it's stated here for the record that we have
24 followed the law in our regulations, and those
25 -- the law and the regulations require us to

1 answer that two-part -- two-pronged question.
2 You heard the petitioner talk about the
3 perception he holds that we have not accurately
4 reconstructed his dose. We feel that we have
5 accurately reconstructed his dose on a dose
6 reconstruction, as well as accurately can
7 reconstruct dose for this class -- not only by
8 bounding, but by more precise estimation of
9 dose. So that's one comment I feel is
10 important for the record.
11 Another comment I would offer is that there's
12 risk here. Our policy has been to advance
13 petitions that qualify so that we can give full
14 explanation and rational, clear understanding -
15 - if we can impart that -- to petitioners on
16 how we go about doing our work, whether it's
17 dose reconstruction or an evaluation of the
18 petition. So in that -- in that effort, we
19 have not held back and -- and denied these one-
20 party petitions, if you will, where the class
21 is so small, it's so narrow, that it represents
22 an individual who's not happy with perhaps the
23 outcome of a dose reconstruction. So I think
24 that needs to be considered as -- as well.
25 It's been our policy to advance these forward,

1 but you could find yourself dealing with a lot
2 of individual-represented petitions. This is
3 not an appeal board, as you know, but it
4 certainly -- there's risk there toward that.

5 **DR. ZIEMER:** Thank you. Are you ready to vote
6 on the motion --

7 **DR. MELIUS:** Can --

8 **DR. ZIEMER:** -- to postpone?

9 **DR. MELIUS:** Can I just respond?

10 **DR. ZIEMER:** Yeah.

11 **DR. MELIUS:** I think Larry did -- is making a -
12 - a good point there and concur, and some of
13 the problem with this, the -- dealing with this
14 petition is that we get into -- may not be
15 dealing with SEC issues, per se, but into the
16 reconstruction issues related to that
17 individual and it -- it's awkward and -- in
18 some ways and -- and -- and does have some
19 peril. So I mean we are, I think -- at least
20 I'm -- and I think others are cognizant of --
21 of that. At the same time I certainly think in
22 this case, as I read the petition and you--
23 your res-- your response to it, that -- I mean
24 I think it was justified to handle this as an
25 SEC petition. I think a legi-- a very -- a

1 legitimate issue came up about capability of
2 doing accurate dose reconstruction, and so I --
3 I find nothing, you know, wrong with what
4 you're doing. I don't think you're erring
5 (unintelligible) or not. That may not always
6 be, you know -- I mean these are -- these cases
7 are difficult, I think, simply by the nature of
8 how you have to deal with them and -- and this
9 is one avenue for so-called appeal. But -- but
10 I -- I mean I do think it was justified to
11 follow the steps. It -- it is harder to -- for
12 us to deal with it because of the privacy
13 situation, as well as this issue of getting
14 into -- sort of commenting on an individual
15 dose reconstruction that's in process, which is
16 something we try to avoid.

17 **DR. ZIEMER:** As a caution, we need to duly note
18 that we don't want this to be a back-door
19 appeal process for every failed dose
20 reconstruction.

21 Now are we ready to vote on the motion to
22 postpone? The motion to postpone carries with
23 it an implied -- well, not implied; an agreed-
24 upon discussion at least of where we are at the
25 next meeting in determination of next steps at

1 that point, assuming we have the documents all
2 in place by that time.

3 Those who favor the motion, raise your right
4 hand.

5 (Affirmative responses)

6 Any opposed to the motion?

7 (No responses)

8 Abstentions?

9 (Indicating)

10 One abstention.

11 The motion carries. Thank you very much.

12 **DR. WADE:** Do you wish to have your vote
13 recorded?

14 **DR. ZIEMER:** I'll vote in favor.

15 **DR. WADE:** Okay, so that's 11 in favor, one
16 abstention. And I put it on our tentative
17 agenda for a December 6th call. I guess I
18 would ask someone on the NIOSH staff to
19 interface with the petitioner to be sure that
20 we get that information.

21 **DR. ZIEMER:** Okay. Next --

22 **MR. ELLIOTT:** Laurie will contact him and make
23 sure we get the information, distribute it to
24 the Board and post it on the O drive.

25 **Y-12 SEC PETITION**

1 **DR. ZIEMER:** Thank you. Next we're ready to
2 proceed on a Y-12 SEC petition. LaVon again is
3 going to present the evaluation report for
4 NIOSH.

5 **MR. RUTHERFORD:** (Off microphone) Can you check
6 and see if (unintelligible)?

7 **DR. ZIEMER:** Yes, [Name Redacted]* is to
8 represent the petitioners. Is she on the line?

9 (Pause)

10 **UNIDENTIFIED:** No.

11 **DR. ZIEMER:** At the -- at the moment she's not
12 on the line. Do we need to contact her first,
13 or shall we proceed?

14 **DR. WADE:** Well, we should try to contact her.
15 Do you have the contact information --

16 **DR. ZIEMER:** Yeah, before we do that, we have a
17 conflict on Y-12?

18 **DR. WADE:** Yes. They've stepped away from the
19 table.

20 **DR. ZIEMER:** Okay, Mr. Presley and Dr. Poston -
21 - is that it, just the two, have secluded (sic)
22 themselves. They are conflicted on this one.

23 **MR. RUTHERFORD:** We'll have to check with
24 Laurie Breyer to see if she's got [Name
25 Redacted] phone number.

1 **DR. WADE:** Okay. (Unintelligible) do that?
2 Larry's (unintelligible). I think we should
3 proceed.

4 **DR. ZIEMER:** Yeah, 'cause she has the report.
5 Let's go ahead then, LaVon, if you'll proc--
6 proceed with the presentation. Perhaps she'll
7 come on shortly.

8 **MR. RUTHERFORD:** All right. I'm LaVon
9 Rutherford and I'm going to present the Y-12
10 SEC petition, that would be SEC Petition number
11 00039.

12 We received this petition on July 28, 2005.
13 Our initial review of that petition was that it
14 did not qualify and we issued a proposed
15 finding that the petition did not qualify on
16 September 28. In January 26th of the following
17 year the petitioner requested an administrative
18 review of that petition.

19 From the time that the petitioner requested the
20 administrative review, there's a -- as I
21 mentioned yesterday, a number of things that
22 went on. We did an internal assessment of our
23 own process to ensure that we were communing
24 well -- communicating well with the
25 petitioners. We also got Laurie Breyer on

1 board as our SEC petition counselor. Dr.
2 Lockey's group looked at the SEC petition
3 process to -- at petitions that did not qualify
4 and provided recommendations as well -- ways
5 that we could communicate better with the
6 petitioners, so -- Dr. Lockey's group did not
7 get a chance to look at that actual petition
8 because it was in the administrative review --
9 review process at the time.

10 The administrative review panel came back with
11 a recommendation that we should qualify the
12 petition because they felt we did not provide
13 clear justification to the petitioner for not
14 qualifying that petition.

15 So on January 11th, 2007 we qualified the
16 petition and moved forward with our evaluation.
17 On June 29th we issued our evaluation report
18 and -- to the Board and the petitioners.

19 The petitioner's proposed class was all
20 statisticians who performed statistical
21 analysis of biological experiments related to
22 radiation who worked in all locations at Y-12
23 from the period of January 31st in 1951 through
24 June 30th, 1959.

25 There were a number of reasons we modified that

1 class definition. One, we had a -- a previous
2 SEC petition that had completed evaluation that
3 actually evaluated class up through the end of
4 1957, so this person was included in that
5 portion of the class. And then we also --
6 because the petition basis was an acute
7 incident occurring in the first quarter of
8 1958, we modified the class definition to --
9 for the years -- or for the period January 1,
10 1958 through June 30th, 1958.

11 All right, a little (unintelligible) on Y-12.
12 Y-12 National Security Complex is located in
13 eastern Tennessee. It was part of the
14 Manhattan Project. Its function was to produ--
15 process uranium for the first atomic bomb.
16 Construction of Y-12 started in February of
17 1943. Enriched uranium production started in
18 November of that year.

19 The first site mission was to separate uranium-
20 235 from natural uranium by the electromagnetic
21 separation process.

22 Since World War II Y-12 missions have included
23 uranium enrichment, lithium enrichment, isotope
24 separation and component fabrication.

25 After World War II the -- there was a

1 moratorium on construction of facilities at the
2 Y-12 facility -- or down in the Oak Ridge
3 complex. Oak Ridge National Lab needed
4 facilities to do work with their Biological
5 Science division. There was the -- there was
6 facilities at Y-12 that were no longer in use
7 because of the Calutron operations had ceased
8 and left some buildings available, so the Oak
9 Ridge National Lab used some of the Y-12 -- was
10 given some of the Y-12 facilities to con--
11 conduct their animal research concerning
12 carcinogen used at -- carcinogens. The
13 Biological Science division used sealed
14 radioactive sources of cesium, cobalt,
15 californium to do their experiments.
16 In our evaluation we looked at a number of
17 sources for information. We looked at the
18 existing Y-12 site profile. We looked at
19 Technical Information Bulletins that we
20 currently had. We had interviews with former
21 employees and case files in the NIOSH database,
22 looked at the site research database
23 specifically for incidents and things that may
24 have led -- that would have been indi-- been
25 indicative of this event. We looked at the Y-

1 12 Delta View Imaging system. We -- in that
2 system we -- again we looked for incident
3 reports of things from the ear-- the '58 time
4 period to see if we could, you know, find an
5 incident where this occurred. We also reviewed
6 documentation and affidavits provided by the
7 petitioner.

8 Other technical documents, we looked at
9 dosimetry documents on fogging or light leaks
10 that had -- was identified in this petition.
11 We also looked at medical reports on acute
12 radiation syndrome.

13 Radiation exposures occurred through -- to the
14 class. The principal internal exposures would
15 have been from the residual uranium from the
16 (unintelligible) production operations that
17 occurred in the facilities. We did look at the
18 possibility of leaking sealed sources --
19 leaking of the sealed sources. We had no
20 indications of any source leaks during the time
21 period, or in the few years after, of this
22 petition.

23 We looked at principal external radiation
24 exposures were beta -- beta exposures from
25 residual uranium contamination, gamma exposures

1 from the cesium and cobalt sources, and neutron
2 exposures from a californium-252 source.
3 As of November 20th, 1951, all Oak Ridge
4 National Laboratories, regardless of work area,
5 were required to wear a combination security
6 badge and film dosimeter. NIOSH has external
7 monitoring data for -- for members of the
8 class.
9 NIOSH's evaluation on this class -- we -- we
10 focused on external monitoring because of the
11 exposure scenario identified. The exposure
12 scenario was identified was an acute exposure
13 occurring in the early 1958 period and that the
14 -- a film badge reading was falsified which I -
15 - I actually identified this acute exposure.
16 Therefore, our focus was -- like I mentioned,
17 we did look at the -- looked for indications of
18 failure, leakage sealed sources, and had no
19 indication. So our focus on internal
20 monitoring was on uranium then, and we had
21 internal monitoring data for some members of
22 the class, and we also have a Y-12 coworker
23 model.
24 Issues identified by the petitioner and -- and
25 our findings with -- with respect to those

1 issues. Petitioners submitted medical evidence
2 of a depressed white blood count for a member
3 of the class, and actual -- the -- actually
4 submitted a number of reports on the -- this
5 white blood count that actually started from --
6 records indicate that they started in '58 up
7 through -- all the way up until the person
8 acquired a form of leukemia later in -- around
9 1990.

10 We also looked at -- and -- and based on that
11 information, there was the expo-- as I
12 mentioned, there was a film badge reading that
13 indicated roughly 4.3 rem exposure. That film
14 badge reading was lined out and identified with
15 100 percent light leak, and it also included in
16 the interview with the employee that -- that
17 employee indicated that they were not aware of
18 being involved in any radiological exposures.
19 The technicians and the -- the individuals that
20 looked at the film badge made the determination
21 that it was caused from a light leak in the
22 film badge and therefore it was lined out and
23 identified 100 percent light transmission and
24 they were given a zero on the badge reading to
25 -- to be consistent with their other badge

1 readings they had previously received.

2 I want to point out that the -- the actual --

3 the levels that -- of a film badge are not

4 consistent with what you would see for a

5 reduced white blood count. 4.3 rem is roughly

6 on an order of magnitude below what you would

7 see blood changes and could be much higher than

8 that to see the reduced white blood count

9 indicated. Also, for this acute incident to

10 have occurred in this area, you would had to

11 had a failure of interlocks and administrative

12 controls. The highest source at that time -- I

13 know if you look at the report you'll see a

14 source that indicates that it releases -- or

15 the exposure rate of over 400 rems per hour.

16 However, that source was not in place in -- in

17 the 1958 period. It went into place in 1962.

18 That should have been reflected in the report

19 but it's not.

20 The sources that were available, the highest

21 exposure source was 26.5 rem per hour. That

22 source would have had to been exposed for a

23 considerable period of time, for hours, in

24 order to -- an individual at one meter to

25 receive the exposure indicated.

1 As I indicated earlier, we reviewed the Oak
2 Ridge National Lab and Y-12 incident --
3 incident reports. We had no indication of an
4 incident that would have delivered an exposure
5 of this level.
6 We also looked at the monitoring data for other
7 -- the biological science division employees to
8 see if we had indications of higher readings
9 during a given time, and we had no indications
10 of any higher readings for those individuals.
11 And we looked at the -- the medical evince --
12 evidence in itself does not support an acute
13 exposure. Typically seen from acute exposure
14 to high level of radiation causing a reduced
15 white blood count you will have a drop in the
16 white blood count to a -- a level, and
17 subsequently that white blood count, over the
18 weeks following, will return back to a normal
19 level. What we've seen from the medical
20 evidence provided was that a chronic expo-- a
21 chronic low white blood count for a number of
22 years. And if you actually look at one of the
23 medical reports, it indicates that the
24 individual in question is -- white blood count
25 was at the low level in -- if you would look at

1 a range of white blood counts being 5,000 to
2 10,000 being the normal range, this
3 individual's white blood count was around 5,000
4 in the years prior to this supposed incident
5 occurring.

6 So based on what we've seen -- and we also
7 noticed that if you looked at the levels of the
8 white blood counts in the subsequent years,
9 they ranged from roughly 1,950 up to 5,150 in
10 the following years, and then they were fairly
11 constant from that point on.

12 As we mentioned, the petitioner identified a
13 film badge reading that they felt had been
14 modified that was indicative of this exposure
15 incident occurring. This film badge reading
16 again was investigated by Oak Ridge National
17 Lab and determined to be caused by a light
18 leak, and I did review that report.

19 We also looked at other reports and we did
20 actually find another report at Oak Ridge
21 National Lab and at Y-12 that had similar
22 findings for 100 percent light leak on four
23 individuals, so this is not a -- necessarily an
24 isolated incident.

25 We -- again the employee was consulted and

1 indicated no past history of radiation
2 exposure. We did look at their individ-- that
3 individual's readings, and they did have some
4 external monitoring exposure. I think 17
5 millirem was identified in a quarter, and
6 possibly 100 millirem in another quarter. So
7 although that was indicated at that time, that
8 they had no -- no experience of exposure
9 history, I did want to point out that we did
10 review their records to look at that.
11 And we did look at the indication of tears and
12 pinholes and stuff in the film badge. It is a
13 -- a phenomenon that is ki-- that was seen in
14 the industry at that time, so that is not
15 something that was just identified at Y-12 or
16 Oak Ridge National Lab.
17 Our evaluation process -- I also wanted to go
18 back to -- among the concerns -- I apologize.
19 One concern was -- is a criticality incident
20 that occurred at Y-12 in 1958. And if you look
21 at the report, in the report it clearly lays
22 out that the inci-- that the 1958 criticality
23 occurred I think in -- it was August or
24 September --

25 **DR. ZIEMER:** June.

1 **MR. RUTHERFORD:** June, thank you, I couldn't
2 remember -- which was later in the year from --
3 from the supposed first quarter 1958
4 occurrence.

5 So two-pronged test, is it feasible to estimate
6 the level of radiation dose for individual
7 members of the class. If we answer that yes,
8 we don't ask the second question, is there a
9 reasonable likelihood of health endangerment.
10 We found that the available monitoring data,
11 process, source term description -- source term
12 data are sufficient to complete dose
13 reconstruction for the proposed class. NIOSH
14 determined it is feasible to complete dose re--
15 dose reconstruction with sufficient accuracy;
16 therefore a health endangerment determination
17 is not required.

18 In summary, the internal exposures from uranium
19 and all external exposures can be calculated
20 for the individual -- or for the proposed
21 class. And our recommendation is that we can
22 reconstruct dose.

23 Questions?

24 **DR. ZIEMER:** Thank you, LaVon. This now is
25 open to questions. Let's find out if the

1 petitioner is on the line. Is [Name Redacted]*
2 on the line now?

3 **DR. WADE:** (Off microphone) (Unintelligible)
4 someone calling her immediately outside the
5 door. We've been trying to contact her all day
6 and have not been successful.

7 **DR. ZIEMER:** Apparently not at this moment.

8 **DR. WADE:** Laurie -- Laurie is trying. I asked
9 her to try at the end of LaVon's comments.

10 **DR. ZIEMER:** LaVon, I'd like to ask a couple of
11 questions. I think you implied that the -- the
12 large cesium source was not in -- I assumed it
13 was the cesium source -- was not in use at that
14 time.

15 **MR. RUTHERFORD:** Yeah, in fact, you know, in
16 preparations for the -- my presentation, when I
17 drew in all the information, I -- I was
18 concerned because our report did not identify
19 that and I actually went back and verified that
20 the large cesium source did not come into
21 operation till -- it was like 1961 or '62.

22 **DR. ZIEMER:** Right. Now I also want to ask
23 about the californium source during this period
24 because my recollection of -- is that
25 californium wasn't -- sources weren't really

1 being used till the '60s. Am I right? Isn't
2 that too early for californium as well? We can
3 call on Dr. Poston as a site expert.

4 **DR. POSTON:** Well, I -- you're correct.
5 There's a couple of things -- and I am
6 conflicted, but I have to tell you that I
7 participated in the installation of that
8 californium source in the biology division, and
9 it didn't occur before about 1967.

10 **MR. RUTHERFORD:** Okay.

11 **DR. POSTON:** I'm estimating probably 1971.
12 The health physics division at Oak Ridge
13 National Lab installed that and calibrated that
14 source. There was no source. Also, it could
15 not have been 3.9 curies -- maybe 3.9
16 microcuries -- 'cause in those days we were
17 making small quantity sources, not -- I don't
18 think we made four curies total since we
19 started making californium.

20 **DR. ZIEMER:** Yeah. Well, californium sources
21 weren't available anywhere in the country, or
22 perhaps the world, till later. So the only
23 source I think that would be under considered -
24 - consideration would be the cobalt source --

25 **MR. RUTHERFORD:** Okay.

1 **DR. ZIEMER:** -- possibly. Is that correct? I
2 -- I think you were saying that the 80-curie
3 cesium probably wasn't in play until --

4 **MR. RUTHERFORD:** The way I understood was the
5 cesium source was the cesium -- the 65-curie
6 cesium source was in play. The
7 (unintelligible) --

8 **DR. ZIEMER:** (Unintelligible)?

9 **MR. RUTHERFORD:** Yeah, the actual cobalt one
10 was, but that -- the 65-curie ce-- or cesium
11 source actually had the higher dose rate at --
12 well, actually -- I'm sorry --

13 **DR. ZIEMER:** Couldn't the --

14 **MR. RUTHERFORD:** -- curie.

15 **DR. ZIEMER:** -- cobalt runs roughly four times
16 --

17 **MR. RUTHERFORD:** Uh-huh.

18 **DR. ZIEMER:** -- on dose rate --

19 **MR. RUTHERFORD:** Yeah.

20 **DR. ZIEMER:** -- at -- at a distance than
21 cesium, so --

22 **MR. RUTHERFORD:** But it -- we actually have a
23 dose rate in there on the cobalt source if you
24 look -- take a look at it.

25 **UNIDENTIFIED:** (Off microphone)

1 (Unintelligible)

2 **MR. RUTHERFORD:** Yeah. Yeah, and it's only a
3 3.75 curie source. There was five --

4 **DR. ZIEMER:** I'm -- so it seemed like --

5 **MR. RUTHERFORD:** -- R per hour.

6 **DR. ZIEMER:** -- the cesium source would give
7 more output is what --

8 **MR. RUTHERFORD:** Yeah, the cesium source we've
9 identified is rated at 26.5.

10 **DR. ZIEMER:** Oh, that's the rate.

11 **MR. RUTHERFORD:** Yeah, that's the one I called
12 out.

13 **DR. ZIEMER:** Oh, I see. Oh, okay. I gotcha.

14 **MR. GRIFFON:** And that was there at the time?

15 **MR. RUTHERFORD:** Yes.

16 **MR. GRIFFON:** Okay. I -- I (unintelligible) on
17 that.

18 **MR. RUTHERFORD:** Yeah.

19 **DR. ZIEMER:** Okay.

20 **MR. RUTHERFORD:** And that's the one that's
21 called out in the report, later on in the
22 report, if you look at the feasibility section.

23 **DR. ZIEMER:** And can you also tell us whether
24 that was a fixed source such as in a fixed
25 irradiator, or was it portable?

1 **MR. RUTHERFORD:** I believe it was a fixed
2 source in a fixed irradiator is the way I
3 understood it. Now I've -- I would probably
4 have to go back and -- and double-check on
5 that, but the way I understand, it was a fixed
6 source.

7 **DR. ZIEMER:** Thank you. Other questions?

8 **DR. WADE:** We've -- we've called just this
9 moment and the woman is not available. She's
10 not there.

11 **MR. GRIFFON:** Was that -- just trying to get my
12 bearings remembering the buildings in Y-12, the
13 criticality accident that you identified that
14 did happen later in June of '58, was that in
15 the same area?

16 **MR. RUTHERFORD:** No, I think if you look in
17 your report there's actually a map on that, and
18 they are considerably -- a considerable
19 distance between them -- buildings, no--

20 **DR. ZIEMER:** What you mean by same area, it's a
21 couple buildings over.

22 **MR. GRIFFON:** Yeah.

23 **DR. ZIEMER:** Probably several hundred meters.

24 **MR. RUTHERFORD:** Yeah, if you -- and it's
25 actually laid out in the -- in the report and -

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DR. ZIEMER: The criticality accident, though, was quite well-characterized and --

MR. GRIFFON: Yeah -- oh, yeah.

DR. ZIEMER: -- the dose rates at various buildings are quite well-known.

MR. GRIFFON: Right, right, right, but my -- I guess my question was were -- were they doing different types of research activities or --

MR. RUTHERFORD: Well, the --

MR. GRIFFON: -- you know.

MR. RUTHERFORD: -- criticality incident -- and -- and I think --

MR. GRIFFON: Yeah.

MR. RUTHERFORD: -- Dr. Ziemer could give you better information on that, but was more of a - - a liquid tank coming together and coming to a criticality.

DR. ZIEMER: It was a cleaning operation.

MR. RUTHERFORD: Right.

DR. ZIEMER: Sometimes referred to as the impromptu barrel reactor, because we were draining stuff into a barrel.

MR. GRIFFON: Yeah. No, I -- I -- I've seen all the reports on that. I guess what I'm

1 asking is, the research activities in the area
2 where this person -- these statisticians were.

3 **MR. RUTHERFORD:** No. There was actually no
4 other work like that --

5 **MR. GRIFFON:** Right, right, right --

6 **MR. RUTHERFORD:** -- going on.

7 **MR. GRIFFON:** -- okay.

8 **DR. ZIEMER:** And this was X-10 work --

9 **MR. RUTHERFORD:** Yes.

10 **DR. ZIEMER:** -- and the other was Y-12 work.

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

12 **MS. BREYER:** I did want to give the Board an
13 update on the petitioner. I e-mailed her on
14 the 14th with the information, in Sep-- on
15 September the 14th, and I also called her on
16 September 19th and verbally gave her that
17 information as well (unintelligible) interested
18 in listening. I called and was unable to get
19 anybody to answer, but they might -- you might
20 want to check just one more time, make sure
21 nobody on the phone -- that she's not
22 listening.

23 **DR. ZIEMER:** Thank you. Wanda Munn?

24 **MS. MUNN:** I'm prepared to move that we accept
25 NIOSH's evaluation of this petition as it is

1 described in the documentation.

2 **DR. ZIEMER:** Okay. There's a motion to accept
3 the NIOSH recommendation, which would then be a
4 recommendation to the Secretary that the
5 petition be denied. Is there a second to that
6 motion?

7 **DR. ROESSLER:** Second.

8 **DR. ZIEMER:** Seconded. Okay, discussion?

9 **MR. GRIFFON:** Can I -- can I ask a -- a --

10 **DR. ZIEMER:** Yeah --

11 **MR. GRIFFON:** -- follow-up on --

12 **DR. ZIEMER:** -- sure.

13 **MR. GRIFFON:** -- on the -- you -- you mentioned
14 in one of your la-- later slides that you do
15 have the data to reconstruct --

16 **MR. RUTHERFORD:** Yes.

17 **MR. GRIFFON:** -- you know, I -- I'm curious,
18 this one individual who had the -- a -- at
19 least apparently, you know, erroneous badge
20 reading --

21 **MR. RUTHERFORD:** Right.

22 **MR. GRIFFON:** -- which was corrected to zero,
23 you -- so how would you reconstruct for the
24 statisticians? Would you use a coworker model
25 or do you have sufficient data individually or

1 -- or --

2 **MR. RUTHERFORD:** We would use coworker mo-- I
3 mean we could use the coworker model from the
4 statisticians, but I think we need to -- I mean
5 we could also give them, you know, a --
6 depending on what we determine, we could use
7 the LOD-type detection because of the fact that
8 their exposures up to that point were zero. I
9 mean -- so I think that the data -- we have
10 enough data that we could use -- if we
11 determine that it wa more appropriate to give
12 them a -- a coworker model external exposure,
13 we have that data to do it. All right?
14 Otherwise -- and really, to be -- you know --
15 well, I shouldn't even say it, but you know, we
16 -- we've done dose reconstruction on it
17 already.

18 **DR. ZIEMER:** LaVon, do any of the members of
19 the -- or any of the petitioners allege that
20 they actually were aware of an incident -- for
21 example, there are cases where -- in these kind
22 of facilities where the source gets stuck in
23 the out position and somebody goes in -- you
24 know, they're irradiating mice or something,
25 and then they think the source is back in the

1 shield and they wander in and -- and get
2 substantial exposure -- by substantial, perhaps
3 50, 60, 70 -- which happened in the -- oh, one
4 of the animal facilities at Oak Ridge that's
5 operated by the U. of Tennessee and --

6 **MR. RUTHERFORD:** Yeah, I did that dose
7 reconstruction, by the way.

8 **DR. ZIEMER:** Okay. Well, so -- so then -- but
9 normally when that occurs, the -- the
10 individuals involved know that that has
11 occurred.

12 **MR. RUTHERFORD:** Right. We have --

13 **DR. ZIEMER:** Do any of these individuals allege
14 that they inadvertently walked in when the
15 source was out or anything like that?

16 **MR. RUTHERFORD:** No, we have -- and -- and
17 that's the thing -- you know, just like you
18 said, if -- if it occurs, it's going to occur --
19 - I wouldn't expect it to occur necessarily to
20 a statistician as much as if it was going to
21 occur it would be to the actual technician
22 performing the activities. And in the typical
23 (unintelligible) that occurs, you know, it is
24 known because interlocks, the administrative
25 controls, things have been violated for it to

1 occur, you know, so -- you know, and -- and
2 when -- as I mentioned, when I did the dose
3 reconstruction for the individual that -- the
4 one you were talking about, there were a number
5 of interlocks that were violated in that
6 situation, so...

7 **DR. ZIEMER:** We have a motion before us.
8 Anyone wish to speak for or against the motion?
9 Or are you ready to vote?

10 (No responses)

11 I take it we're ready to vote. All who favor
12 the motion, which would be to concur with the
13 NIOSH assessment and recommend that the
14 petition be denied, raise your right hand.

15 (Affirmative responses)

16 One, two, three, four, five, six, seven, eight,
17 nine, ten -- I see ten.

18 Are there -- apparently no noes, and no
19 abstentions. The motion carries.

20 **DR. WADE:** Ten zero with two members away from
21 the table.

22 **DR. ZIEMER:** Right. Okay, thank you very much.
23 The two members are -- may now rejoin us.
24 Welcome back.

25 **DR. WADE:** We feel whole again.

1 Florence Black, are you -- can you come up and
2 join us?

3 PLANS TO PROCURE BOARD CONTRACTOR FOR FY09 AND BEYOND

4 **DR. ZIEMER:** Okay, we're going to talk about
5 our Board contractor for FY '09 and beyond, and
6 Flo is -- is going to give us the scoop on how
7 we proceed here. Lew, take a moment and
8 introduce Flo more formally to the group.

9 **DR. WADE:** Florence Black, who might be known
10 to some of you, is a contracting officer who
11 works in Pittsburgh. David Staudt has done the
12 work on the SC&A contract, but David has been
13 detailed to Atlanta for some four months and
14 during his absence Flo is taking on this part
15 of his portfolio. We fully expect David to be
16 back, possibly in time to proceed with most of
17 these actions. But as I mentioned to you
18 before, this is such an important contract and
19 we all understand the vagaries of government
20 progress on these things that we wanted to
21 start very, very early in the process. So
22 rather than wait for David to be back, we
23 thought we would begin now the process of
24 moving towards the recompetition of the
25 contract that provides technical support to the

1 Board. That contract runs through the fiscal
2 year we're in now, which means that SC&A will
3 be on the job through September of 2008. We
4 have time, but best that we begin now.
5 What we've done to sort of prime the pump is
6 we've provided you with the statement of work -
7 - tasks -- that were used the last time, with
8 one modification. Flo and I added in the --
9 the new task for SEC work that was added to the
10 original contract. So the statement of work
11 you have is basically the statement of work
12 that was used to compete the last time, with
13 the task added in for SEC work, as the contract
14 was modified.
15 We've also included the evaluation plan that
16 was in essence used last time. There were some
17 slight modifications to put it into the format
18 that CDC uses now. So you have the statement
19 of work and the evaluation plan.
20 I've also shown to you -- and Flo has posted
21 this on the public web site so that the world
22 can see everything that we do. I would rather
23 have all of the discussions regarding our
24 pursuit of a new contractor public. And I
25 think the best way to do that is to put all the

1 documents on the public web site so that the
2 world can see and comment at the same time we
3 discuss them.

4 What -- what will happen, I think, is that we
5 can have the discussion now related to those
6 documents. Individual Board members can make
7 comment to Flo or I between now and the
8 December 6th meeting. At the December 6th
9 meeting we can have another discussion of the
10 statement of work and the evaluation plan.
11 Hopefully after that we would be in a position
12 to move forward with an announcement of our
13 intent to solicit that would hit the street in
14 January, and then the full solicitation would
15 be out when, Flo?

16 **MS. BLACK:** Hopefully by the end of March.

17 **DR. WADE:** The only other thing that we want to
18 lay before you is -- the process as it -- the
19 selection process and evaluation process, as it
20 will take place, will have the formation of a
21 technical advisory panel. In the past that
22 panel was chaired by the technical project
23 officer -- that would be my position. The last
24 time we had, I think, three Board members who
25 participated on the technical evaluation panel,

1 and we ne-- we'd like to --

2 **MR. GRIFFON:** Two, I think it was two.

3 **DR. MELIUS:** Paul and Mark, I think.

4 **DR. WADE:** Paul and Mark? I don't know the --
5 I don't know the third name, so Paul and Mark
6 at least -- do you think --

7 **DR. MELIUS:** (Off microphone) (Unintelligible)
8 remember being on it?

9 **DR. WADE:** Do you remember?

10 **MR. GRIFFON:** (Off microphone) (Unintelligible)
11 two.

12 **MS. BLACK:** I -- I thought there were -- a -- a
13 third one when I looked in the file, but maybe
14 I read it wrong, perhaps.

15 **DR. ZIEMER:** Tony might have been on it. Do
16 you think it was...

17 **MS. BLACK:** There were two people that had the
18 training that's required, and one didn't have
19 to have it because the Board composition was
20 okay, but I -- that's what I was thinking was
21 from the Board.

22 **DR. WADE:** Maybe it was Tony.

23 **DR. ZIEMER:** Well, I --

24 **DR. MELIUS:** Could have been Tony, yeah.

25 **DR. WADE:** So -- so if you would like to

1 recommend two or three -- when a technical
2 panel is put together of any members, it's
3 necessary that at least half of them have gone
4 through training. So depending upon the size
5 of the panel and the Board members we select,
6 it's possible that a Board member selected
7 might have to take training, which is a five-
8 day class that can be taken on line.

9 I'll say this off-record -- we'll try and
10 shield you from that, but it might be necessary
11 for you to have to take that.

12 **DR. MELIUS:** Five days?

13 **DR. WADE:** Five days. Take it on line.

14 **MS. BLACK:** Yeah -- well, we hope you can take
15 it on line; I can't guarantee that. And if you
16 take it for five days, you take a test. It's a
17 tested class.

18 **DR. WADE:** Now my records show that Dr. Ziemer
19 is duly tested --

20 **MS. BLACK:** Yes.

21 **DR. WADE:** -- trained and tested. Mark is not.
22 So we would hope that, based upon the
23 arithmetic, maybe the Board members wouldn't
24 have to take the training.

25 So that's everything. We can talk about it.

1 You can question Flo.

2 **MS. BLACK:** Okay, I -- I did want to make a
3 couple of comments. First of all, a few of you
4 know that actually because of things that
5 occurred in the contracting office back in
6 2003, I actually was the specialist that made
7 the original award. It had been transferred to
8 me during a transition of -- of staff, and then
9 I trans-- it was then assigned to David when he
10 was hired, so I'm a little familiar with --
11 with the -- the basics of the support for the
12 Board. And I think some of you have heard my
13 name in other contexts, too.

14 There are a couple -- if you read these
15 announcements, these were posted. The
16 www.fbo.gov is a public web site, anybody can
17 go to it. I've had -- already had one inquiry
18 and the -- it's of a very general nature, just
19 asking me was this a recompet. But anybody
20 can go to it. This will be up there for quite
21 a while.

22 I do want to caution you that if you go to the
23 statement of work and print it, you're going to
24 find out that, because I cut and pasted it from
25 a Word document, that particular web site takes

1 all things like apostrophes and -- and
2 quotation marks and turns them into question
3 marks, so you're going to see a lot of question
4 marks if you -- if you print that out. Or if
5 anybody you know prints it out please tell them
6 we didn't fill it with question marks. It's a
7 -- it's a fluke in the system and feel free to
8 share this document with anyone now that it's a
9 public document, it's not restricted in any
10 way.

11 If you'd like I'll -- I'll do a -- a quick
12 review of this, just --

13 **DR. WADE:** Please.

14 **MS. BLACK:** The statement of work starts out
15 with --

16 **DR. WADE:** Everybody should have it in their
17 book --

18 **MS. BLACK:** And there are copies in the back
19 for -- out there. This is the standard format,
20 it starts out C.1, because the statement of
21 work in a contract or in a request for proposal
22 is section C, so it starts out C.1. And to the
23 extent that you have any comments that -- that
24 you want to make on them, if you can reference
25 the section, that's really helpful 'cause then

1 we'll know you're -- you're -- that's what
2 you're talking about.

3 Yes?

4 **MS. BEACH:** I have a question. Are the
5 inquiries that are made on the web site, are
6 those posted, and the answers?

7 **MS. BLACK:** No, this is not a formal synopsis.

8 **MS. BEACH:** Okay.

9 **MS. BLACK:** Okay? The formal synopsis we hope
10 to post the first week of January, depending on
11 -- on how that falls out with ev-- everybody's
12 schedule. This is -- this was published under
13 what's called a special notice, but the number
14 that's given to it is the request for proposal
15 number that will follow it through the whole
16 process, that 2008-N-09682. Good question,
17 because when it's -- when the proposal goes on
18 it and inquiries are made, all of those answers
19 are posted. This was just to ask for public
20 comment, and we can -- as -- as a Board, you
21 can include the comments. We, as a -- you
22 know, a contracting office, as Lew and his
23 staff, can read the comments and say they don't
24 apply, and we don't have to respond to them
25 when it's a special notice. It's just to get

1 feedback. And -- and because Lew and the rest
2 of us are very concerned about making the
3 process as transparent as possible because of
4 the nature of the work, so we put it out as a
5 special notice.
6 This is not usually done in -- this -- it's not
7 a -- it's not a standard contract procedure.
8 It's completely acceptable, but it's not a
9 standard contract procedure. Usually the first
10 thing you see out there is the synopsis.
11 But the statement of work is the one with all
12 the Cs, and it's again in the standard format.
13 The purpose of the contract, the -- the
14 background and need, which talks about all the
15 regulations and the -- and the establishment of
16 the Board. Then the specific tasks, which are
17 divided into sub-parts under C.3, and that's
18 the lengthiest part -- as it always is since
19 that's where we describe what's necessary. And
20 that's the formal statement of work as -- as it
21 will go -- this could be the final one, if --
22 if no one has any comments that need to be
23 incorporated, this may be what ends up as
24 section C of the actual request for proposal.
25 And then, unless we would make changes as a

1 result of the proposals we would get, this
2 could be the final contract.

3 **DR. WADE:** Now under the explanation we have A,
4 B and C. A is individual dose reconstruction
5 reviews, and there we talk about the blind
6 reviews, the advanced reviews, the basic
7 reviews -- as we did before. B is NIOSH/OCAS
8 site profiles and procedures reviews. And then
9 C is review of SEC petitions, so it's -- it
10 covers all the work we're currently doing,
11 consistent with the terminology you currently
12 use.

13 **DR. ZIEMER:** Does this automatically cover --
14 there is another task, which is ma-- mainly a
15 tracking task. I think it may be Task IV; I'm
16 looking for John Mauro --

17 **DR. WADE:** Task II.

18 **DR. ZIEMER:** -- or Task II?

19 **DR. WADE:** We don't do that.

20 **DR. ZIEMER:** No, but they do a --

21 **MS. MUNN:** We have other tracking that we're --

22 **DR. WADE:** They developed a tracking system.

23 **DR. MELIUS:** Yeah, they developed a tracking
24 (unintelligible).

25 **DR. MAURO:** In the previous -- the first

1 contract there was a Task II for the tracking
2 system. That has been completed and delivered.

3 **DR. ZIEMER:** Oh, here we go -- oh, we've got
4 procedures and site profile in one here, so
5 that's -- that --

6 **DR. WADE:** The procedures.

7 **DR. ZIEMER:** I was looking for a fourth task.

8 **DR. WADE:** Correct, the procedures task is
9 there.

10 **DR. ZIEMER:** Okay.

11 **DR. WADE:** We don't call out a project
12 management task. I think that's up to the
13 offerors to -- to propose back to us.

14 **DR. ZIEMER:** Oh, that was the other one,
15 project management, but that's kind of built in
16 here. Right?

17 **MS. BLACK:** Right.

18 **DR. ZIEMER:** Yeah.

19 **MS. BLACK:** That's actually -- when you look at
20 the criteria, you'll see that's the second
21 evaluation criteria. Any other --

22 **DR. ZIEMER:** Well, what do we -- do you need
23 specific comments today or are you just
24 soliciting --

25 **MS. BLACK:** That's your -- that's your choice.

1 **DR. WADE:** If you want to guide us in a
2 different direction immediately --

3 **MS. BLACK:** Right.

4 **DR. WADE:** -- that's fine. If Board members
5 want to give us individual comments, that's
6 fine. On the 6th we'll have you together again
7 as a duly constituted group. You can comment
8 then.

9 **DR. ZIEMER:** I believe this -- now that I see
10 the hard copy, I got this recently by
11 electronic copy, I don't know if the Board
12 members have had a chance to go through this
13 and digest it. It looks a lot like what we had
14 before --

15 **MS. BLACK:** Uh-huh.

16 **DR. WADE:** It's the same.

17 **DR. ZIEMER:** -- almost verbatim.

18 **MS. BLACK:** Uh-huh.

19 **DR. ZIEMER:** But do you wish to -- to submit
20 your comments individually, which we can do, or
21 you can do it -- do them here?

22 **DR. MELIUS:** Well, I -- I'd like to get this on
23 the agenda for the December meeting conference
24 call.

25 **DR. ZIEMER:** Well, it will be.

1 **DR. MELIUS:** Yeah, well, but then let me follow
2 up. I think there's some issues that we need
3 to think about. I'm not sure we'd make
4 changes, but number one is the -- for the dose
5 reconstruction reviews, I think that
6 subcommittee members should certainly think are
7 there changes that we want to have. Are we --
8 are we satisfied with the -- the current mix
9 and -- and -- of types of reviews. Is there
10 something we -- we need to, you know, think
11 about in -- in terms of --

12 **DR. ZIEMER:** So you would be suggesting that we
13 ask the subcommittee, for example, to give us
14 input on that particular issue at the December
15 meeting.

16 **DR. MELIUS:** Correct. The second thing I --
17 I'd like to have us think about would be the --
18 something we -- we talked about this morning.
19 Are we -- and I think it applies to site
20 profile reviews, also. I think -- when we
21 talked about the Special Exposure Cohort
22 evaluation reviews for large sites, we talked
23 about getting away from, you know, a single
24 large review to -- to -- I don't know if it's
25 focused review, but a series of -- of -- of --

1 sort of a step-wise process to this and -- and
2 I don't know if that needs to be reflected in
3 the -- the contract document or not. It may --
4 I'm not even sure it's something everybody
5 agrees with. We haven't really tried it yet,
6 though.

7 **DR. ZIEMER:** I'm wondering if it would be
8 worthwhile -- and you could do this off-line--
9 is describe that a little more for Florence so
10 that she might be able to tell you how much
11 specificity we need in here. It -- it really
12 is a description of how the contractor
13 currently on the large sites would be carrying
14 out the site profile review. It's sort of the
15 direction that Hanford's going and sort of what
16 was done at -- at Nevada Test Site, and I think
17 that's what you're talking about, should that
18 be reflected in the document.

19 **DR. MELIUS:** Correct. I -- correct, and I
20 think for site profile -- I think we're -- I
21 don't believe NIOSH is going to be preparing
22 too many more new complete site profiles, but
23 they're -- they're, quote/unquote, living
24 documents and they would, you know, continue to
25 evolve and so, again, may-- that may be a more

1 focused review and in order to -- I think to
2 have a fair, you know, competition, that --
3 that we need to specify exactly what -- what
4 we're looking for.

5 Another area I think that I would suggest NIOSH
6 think about -- and again, there -- there may no
7 -- not be any changes planned, but if NIOSH is
8 going -- thinks it's going in a new direction
9 in terms of how it's going to be, you know,
10 doing its work or -- or -- or something, that -
11 - then, you know, maybe there's some changes
12 there. I -- I'm not sure I can even think of
13 any, but it's -- it's a possibility.

14 **DR. WADE:** The PER possibly.

15 **DR. MELIUS:** Yeah, exactly. That -- that's --
16 that's one. I think, again, we also have a
17 procedures workgroup which --

18 **MS. MUNN:** (Off microphone) (Unintelligible)

19 **DR. MELIUS:** Huh?

20 **MS. MUNN:** Stop -- stop right there.

21 **DR. MELIUS:** Well, I'm just going to suggest
22 that -- I'm not going to tread -- I'm not, I'm
23 not trespassing.

24 **DR. ZIEMER:** Well, she's -- you're going to
25 take away what she was going to say.

1 **DR. MELIUS:** Well --

2 **MS. MUNN:** Go ahead. I'm being facetious and I
3 shouldn't. Go ahead.

4 **DR. MELIUS:** What I was going to suggest is the
5 procedures workgroup should also think about,
6 you know, are there -- you know, something
7 about the way that task is described, should it
8 be a separate task. Again, that's going to be
9 a question of updated procedures, new
10 procedures, if it's a -- that, and so forth.
11 And -- and I don't know how all this affects
12 contract, but -- contracting process, but it
13 seems to me that a lot of this'll be, you know,
14 smaller reviews in terms of scope rather than -
15 - than somebody like a complete site profile
16 review, so the task would be, you know, for, so
17 --

18 **DR. WADE:** That's exactly what we need to have
19 a discussion about.

20 **DR. MELIUS:** Yeah, I --

21 **DR. ZIEMER:** And --

22 **DR. WADE:** We just used the same numbers, 40
23 procedures, six --

24 **DR. ZIEMER:** Right.

25 **DR. WADE:** -- site profiles, as a starting

1 point. Now based upon experience to date, we
2 need to modify (unintelligible).

3 **DR. ZIEMER:** Right. The other thing we didn't
4 know at the front end when we entered into all
5 of this was what the resolution process would
6 look like. And it might be of value to the
7 bidders or the potential contractors to have
8 some idea of what that -- that's become a
9 substantial part of what we do. It is part of
10 dose reconstruction reviews and site profile
11 reviews, but the resolution process itself is a
12 substantial effort and we need to make sure
13 that it is covered in the description here in
14 some way.

15 Wanda, you have a comment.

16 **MS. MUNN:** Oh, a couple of quick things. When
17 we have our -- our reports later in the day,
18 the procedures workgroup has a couple of things
19 to say about changes that might go on that
20 probably wouldn't affect this SOW.

21 It would be very helpful for me, and I think
22 perhaps some others, if -- if I could get a
23 feel for the changes that have occurred from
24 the original SOW that we processed in years
25 past and this one. I can see that there are

1 several specific changes, but I -- I guess I --
2 I understand you're asking us to say and what
3 else besides this --

4 **DR. ZIEMER:** This is almost unchanged.

5 **DR. WADE:** That's the only -- that's the only
6 thing I did -- 'cause I cut and pasted -- was
7 take the original and then I took the SEC task,
8 which was not part of the original contract,
9 and I took the words out of it and pasted it in
10 here as Task V.

11 **MS. MUNN:** Okay. So I'm essentially looking at
12 the same thing, with the addition of --

13 **DR. WADE:** Right.

14 **MS. MUNN:** -- the SEC.

15 **DR. WADE:** Yeah, I could have tried to rewrite
16 it, but I thought that would have been
17 presumptuous of me. We need to -- I need to
18 hear your comments and then we'll take those
19 comments. But just as Dr. Melius is
20 enumerating, those are the kinds of things I
21 think need to be changed. We'd like to do it
22 based upon your wisdom.

23 **MS. MUNN:** Yes, and -- and what you said, Jim,
24 triggered something in -- a question from me,
25 as well. We -- we should be pretty far along

1 in terms of the large site profiles now, are we
2 not? We --

3 **DR. MELIUS:** Yeah.

4 **MS. MUNN:** -- we're -- we're pretty much --

5 **DR. ZIEMER:** Yeah, so it's those revisions that
6 he's referring to.

7 **MS. MUNN:** Yeah.

8 **DR. MELIUS:** (Off microphone) (Unintelligible)
9 revisions and those revisions tend to be done
10 by --

11 **UNIDENTIFIED:** In cycles.

12 **DR. MELIUS:** -- chapter.

13 **MS. MUNN:** Yeah, I --

14 **UNIDENTIFIED:** In cycles.

15 **DR. MELIUS:** (Off microphone) (Unintelligible)
16 done piecemeal (unintelligible) -- being fair
17 to -- it's -- they -- done by chapters. I mean
18 some are quite large and -- and involved and so
19 forth, some are minor. But I -- but I think
20 it changes how these'd be assigned and -- and
21 so forth --

22 **MS. MUNN:** Yeah, that's probably true.

23 **DR. MELIUS:** -- Yeah.

24 **DR. WADE:** We're also getting further and
25 further behind the target of two and a half

1 percent dose reconstructions --

2 **DR. MELIUS:** Right.

3 **MS. MUNN:** Uh-huh.

4 **DR. WADE:** -- which is something else you could
5 put in.

6 **DR. MELIUS:** Yeah.

7 **MS. MUNN:** Yeah.

8 **DR. ZIEMER:** Okay, so we need some input --
9 we'll -- we'll need input from the dose
10 reconstruction subcommittee, probably some
11 input from the -- the procedures review
12 workgroup --

13 **MS. BLACK:** Dr. Ziemer --

14 **DR. ZIEMER:** -- general input from everybody on
15 the issue of resolution of matrices and so on.

16 **MS. BLACK:** Yeah, I -- I do want to say
17 something, and maybe I'm not understanding
18 'cause this is my first Board meeting, but we
19 don't want to tell the peop-- the potential
20 offerors exactly how we want them to do
21 something. That's what they tell us. That's
22 what we evaluate on.

23 **DR. ZIEMER:** Right, right, okay.

24 **MS. BLACK:** 'Cause when you start talking about
25 processes, what we want to tell them is what we

1 want them to -- the products we want from them,
2 what we want them to do. Then they come back
3 and tell us this is how we would do it. And
4 those who tell us -- you know, and that's
5 scored. That's what the -- the technical
6 evaluation committee scores.

7 **DR. ZIEMER:** Well, for example, let -- let me
8 take the conflict -- rather the issue
9 resolution process. I'm not proposing that we
10 tell them exactly how we're not -- how we're
11 doing that now.

12 **MS. BLACK:** Okay.

13 **DR. ZIEMER:** But it seems to me that we -- we
14 should at least say that they -- they need to
15 tell us how they would suggest we do issue
16 resolution if they raise issues in their review
17 process.

18 **MS. BLACK:** Right. Yeah, I -- you just -- when
19 you started about process, I --

20 **DR. ZIEMER:** Because we -- we know factually
21 that that's become a substantial part of the
22 work of our contractor.

23 **MS. BLACK:** And maybe we need to add something
24 else in section C --

25 **DR. ZIEMER:** Right.

1 **MS. BLACK:** -- and even in the evaluation
2 criteria 'cause although we haven't talked
3 about those yet, the evaluation criteria are
4 supposed to feed off of the statement of work.
5 And so to the extent that we add something
6 substantive to section C, we might add another
7 -- we don't even have to change the points.
8 You just add another component to the
9 evaluation criteria.

10 **MS. MUNN:** Yes, that resolution process bears
11 heavily on the work we do in procedures
12 workgroup and creates a --

13 **DR. ZIEMER:** Well, all the groups --
14 workgroups, yes.

15 **MS. MUNN:** Yes.

16 **DR. WADE:** Another reason I'd like you to -- to
17 focus on now for discussion later is we have an
18 evaluation plan of 100 points. We're proposing
19 an additional plus or minus 20 points for past
20 performance, think about that. That's a
21 weighty subj-- a weighty amount to give to past
22 performance. Of the 100 points, we're breaking
23 it out -- ten points for understanding purpose
24 and objectives, ten points for management
25 approach, 25 points for the technical approach,

1 and then 25 points for corporate experience
2 broken down into conflict of interest plan and
3 work history -- and I neglected to say 30
4 points for personnel. So those are numbers
5 we're proposing --

6 **MR. GRIFFON:** How does --

7 **DR. WADE:** -- talk to us about.

8 **MR. GRIFFON:** How does this compare with the
9 numbers -- the grading system we used last
10 time? I don't recall.

11 **MS. BLACK:** The format is different. CDC has a
12 -- a different format now where we have these
13 five umbrella subjects, and then we fit
14 everything else under that.

15 **DR. WADE:** I tried to be consistent.

16 **MS. BLACK:** Right.

17 **DR. WADE:** No, the -- the past performance I
18 think is a little higher than last time, or is
19 it the same?

20 **MS. BLACK:** No, I think it's the same.

21 **DR. WADE:** Same as last...

22 **MS. BLACK:** Sometimes we do -- and that would,
23 again, be something you could tell us what you
24 want. We -- we never do lower than ten -- plus
25 or minus ten on past performance, but we've

1 even done as high as 25, plus or minus. So it
2 would depend on -- on how much weight you want
3 to give to past performance, and that's over
4 and above the 100 technical points.

5 **UNIDENTIFIED:** (Off microphone)
6 (Unintelligible) sounds --

7 **DR. MELIUS:** Well --

8 **UNIDENTIFIED:** -- (unintelligible) weighty.

9 **DR. ZIEMER:** Well, we don't need to decide that
10 today.

11 **MS. BLACK:** Right.

12 **DR. ZIEMER:** She's saying --

13 **MS. BLACK:** Yeah.

14 **DR. ZIEMER:** -- heads up on that, another issue
15 we need to resolve at --

16 **MS. BLACK:** Right.

17 **DR. ZIEMER:** -- perhaps at the next meeting.

18 **DR. WADE:** And again, just to -- to be clear on
19 the -- people's expectations, the Board can say
20 what it wishes and the contracting officer will
21 listen and then do what the contracting officer
22 thinks is appropriate. The Board doesn't hold
23 the final decision here. I can't imagine the
24 Board won't hold great sway over this process,
25 though.

1 **MS. BLACK:** Right.

2 **DR. MELIUS:** Can I raise an issue related to
3 that?

4 **DR. WADE:** Sure.

5 **DR. MELIUS:** And again, pardon my memory and
6 also I hope I don't offend anybody, but I -- I
7 -- I think we also have to remember that there
8 is a -- you know, the perception of how this
9 process is done is -- is -- is important, and
10 that to be fair to I think NIOSH and to the
11 OCAS staff and so forth, I think we -- just be
12 -- be careful in terms of how we make up the
13 evaluation committee. I don't recall -- I -- I
14 believe Jim Neton was on it last time. I don't
15 remember --

16 **DR. WADE:** I think Jim chaired it last time.

17 **DR. MELIUS:** Yeah, and -- and -- and I would --
18 I don't have any objection to Jim personally,
19 but -- but I think there'd be -- I'd have a
20 concern this time about someone from NI--
21 NIOSH/OCAS chairing the evaluation committee.
22 I'd also have a concern about there being a
23 significant representation from NIOSH/OCAS on
24 that committee, I -- 'cause not -- last time we
25 had the -- the perception of the OCAS reviewing

1 who's going to be -- who is going to be
2 evaluating them. This time we would be -- have
3 the perception of -- of OCAS reviewing who has
4 been ev-- who has been evaluating them. And
5 although I don't expect there would be any
6 problems, I'm not making that assertion, I
7 think for reasons of the perception of -- of
8 how this process is and -- and to be fair to
9 people applying and so forth that we should
10 avo-- avoid that potential -- that perception
11 of bias.

12 **DR. WADE:** Understood.

13 **DR. MELIUS:** And so having -- and I get -- I
14 don't know the numbers and I can't remember --

15 **DR. ZIEMER:** Well, it is an appropriate point.

16 **DR. MELIUS:** Yeah.

17 **DR. ZIEMER:** The contractor, in a sense, is
18 critiquing NIOSH. So to the extent to which
19 NIOSH chooses their critiquer (sic) --

20 **DR. MELIUS:** Yeah.

21 **DR. ZIEMER:** -- that would raise questions.

22 **DR. MELIUS:** Yeah.

23 **DR. ZIEMER:** We -- I don't -- I don't know if
24 we can even think about -- is it possible to
25 have non-voting people on the board, like if we

1 said okay, we don't want NIOSH to even have a
2 vote but we may want some input or something.
3 But the contracting officer can advise us on
4 that --

5 **DR. WADE:** I can tell you right now --

6 **DR. ZIEMER:** -- but that's a big -- the
7 independence is an important issue.

8 **DR. WADE:** Right now the plan would be that I
9 would chair --

10 **MS. BLACK:** Right.

11 **DR. WADE:** -- with several Board members and
12 several other technical experts, to be
13 determined. But we'll be very clear to you
14 about that before we do it.

15 **DR. MELIUS:** Yeah, well, we -- we need to -- I
16 think we need to discuss that specifically as -
17 - as we get -- get further along.

18 **DR. ZIEMER:** Other comments today, Board
19 members? Yes, Wanda.

20 **MS. MUNN:** But that issue would be a matter of
21 degree, certainly. It would appear logical
22 that you would want the agency who was the
23 primary agency to have a significant voice in
24 the individual groups that they are going to be
25 expected to interface with over a long period

1 of time. That's a -- you know, it's -- it
2 would -- it would be -- it would be unwise to
3 go too far the other direction, as well as
4 going too far in the -- extremes are -- never
5 serve us well.

6 **DR. ZIEMER:** Thank you.

7 **DR. MELIUS:** Can I just com-- I think it's
8 something we can work out. I would personally
9 find that having someone from OCAS chairing
10 that evaluation committee would be, you know,
11 at least -- again, appear-- appearance, and it
12 may be how -- may be a totally valid review and
13 -- and, you know, Jim or whoever would do an
14 excellent job, I -- that, but then, you know,
15 people on the outside are going to interpret
16 that, you know, based on -- on appearance or
17 something --

18 **DR. WADE:** Sure.

19 **DR. MELIUS:** -- and I think that would be, you
20 know, troublesome for -- for -- for this
21 program and -- and I think we have to also
22 recognize there's a significant handicap in
23 terms of trying to find other people that -- to
24 do this. There are a limited number of health
25 physicists within the federal government and --

1 can do this and within the agency and -- and we
2 -- we've struggled with that issue for a whi--
3 while, so it's -- how to balance sort of the
4 technical input, the -- the bias and so forth
5 and I think we -- I agree with Wanda, we have
6 to reach a -- a balance and I think the best
7 way to do that is to have some discussion of
8 that and be open about it.

9 **DR. WADE:** I -- I'd be compelled to say also I
10 think the technical evaluation panel last time
11 did an excellent job.

12 **DR. ZIEMER:** When do we need to select that
13 panel?

14 **MS. BLACK:** When Dr. Wade gives me what we call
15 a formal request for contract.

16 **DR. ZIEMER:** Okay.

17 **MS. BLACK:** He has to include a list. He has
18 to tell me those that do have training and
19 those that don't.

20 **DR. WADE:** Probably December --

21 **MS. BLACK:** Yeah, prob--

22 **DR. WADE:** -- after our -- after our meeting.

23 **MS. BLACK:** After the meeting he'll submit
24 that.

25 **DR. WADE:** So we'll talk about that at --

1 robust (unintelligible) --

2 **DR. ZIEMER:** So we'll need to know -- you know,
3 if all 12 Board members are interested in being
4 on the panel, then we'll have to make some
5 decisions on that. If none are interested,
6 then we'll have to do some arm-twisting.

7 Somewhere between that, we may have a
8 combination of volunteers or others who can be
9 --

10 **DR. WADE:** Some.

11 **DR. ZIEMER:** -- compelled to -- to participate.

12 **DR. WADE:** It seems like people with experience
13 would be wise to include.

14 **DR. MELIUS:** I -- I -- I concur. I -- also we
15 can do like a bidding process, like, you know,
16 when airlines overbooked, you know -- you know,
17 will you take the five-day course, will you
18 take the ten-day course -- we'll see how that -
19 -

20 **DR. ZIEMER:** I was going to --

21 **DR. MELIUS:** -- if we narrow it down.

22 **DR. ZIEMER:** I was going to claim ignorance of
23 having remembered taking the course nor its
24 content, but...

25 **DR. MELIUS:** But my recollection was a one-day

1 course when I was in the government. Maybe
2 I'll just (unintelligible).

3 **DR. ZIEMER:** I think we're all a little slower
4 nowadays. Okay, do we need anything further
5 today then on that? I think we -- it's a good
6 opening. Thank you very much, Florence, for
7 getting us underway and our thoughts, and we'll
8 proceed at our next meeting to take the -- the
9 next steps to bring this to fruition.

10 **DR. WADE:** And we're ahead of schedule, but we
11 want to stay there.

12 **DR. ZIEMER:** Very good.

13 **MS. BLACK:** Right, yes.

14 **DR. ZIEMER:** Okay, it's time for a break.
15 We'll take a roughly 30-minute break, or a
16 rough 30-minute break, or something to that
17 effect. Thank you.

18 (Whereupon, a recess was taken from 3:05 p.m.
19 to 3:35 p.m.)

20 **DR. ZIEMER:** Translation of that coded message
21 is that we're ready to resume our
22 deliberations. Before we return to the agenda
23 let me introduce several folks who've joined us
24 this afternoon. John Nowack* who's with
25 Senator Biggert's office -- John, where are you

1 -- welcome. Also Robert Stephan is here from
2 Senator Obama's office and --

3 **DR. WADE:** Robert's over there --

4 **DR. ZIEMER:** -- Robert --

5 **DR. WADE:** -- against the wall.

6 **DR. ZIEMER:** There he is, okay. Couldn't see
7 you in the glare there. And then Deb -- Deb
8 Detmers from Representative Shimkus's office is
9 here.

10 **DR. WADE:** Deb still might be working
11 (unintelligible).

12 **DR. ZIEMER:** Okay, we'll catch her later and
13 we'll hear from Robert later. John, did you
14 have a comment you wanted to make as we get
15 underway? Okay, we're pleased to have you
16 here, nonetheless.

17 (Pause)

18 **SEC PETITION STATUS UPDATES**

19 We have -- have a series of SEC petitions that
20 we want to get updates on that are in various
21 stages of review and consideration. They're
22 listed on your agenda and we'll just go down
23 through the list.

24 **BLOCKSON CHEMICAL**

25 The first is Blockson Chemical, and we'll get a

1 report from the chair of the working group.
2 And that's Wanda Munn, and she'll give us an
3 update on the deliberations of the workgroup
4 and path forward on Blockson.

5 **MS. MUNN:** The Blockson review from SC&A has
6 been under consideration for our last couple of
7 meetings. Most of the issues that they raised
8 have been resolved. We met last on August the
9 28th in Cincinnati. The largest outstanding
10 issue was the issue of the path of the thorium
11 through that chemical process. We've had
12 several communications with respect to that in
13 the interim, and NIOSH has issued a white paper
14 with respect to an additional review of the
15 literature on the finer points and with respect
16 to the thorium itself.

17 Just earlier this week, on the 4th, we met to
18 discuss -- to get a verbal response from SC&A
19 from their very cursory review of that -- that
20 NIOSH white paper. They're going to take a
21 look at it, give us a written report on their
22 reactions to it so that NIOSH can have an
23 opportunity to again respond to their
24 reactions. That information we expect to
25 discuss on a conference call which we will have

1 on November the 2nd.

2 It is our goal on that call to reach a
3 resolution of those last outstanding items and
4 have a recommendation for the workgroup to
5 bring to the Board at our next full meeting in
6 January.

7 **DR. ZIEMER:** Thank you, Wanda. And Robert, did
8 you have some comments that you wanted to make
9 relating to Blockson at this point? Thank you.

10 **MR. STEPHAN:** Thank you, Dr. Ziemer. Robert
11 Stephan, S-t-e-p-h-a-n.

12 **UNIDENTIFIED:** (Off microphone)
13 (Unintelligible) hear you.

14 **DR. ZIEMER:** I'm -- make sure the -- is the
15 mike up?

16 **MS. MUNN:** We're having a problem with our
17 system, Robert.

18 **MR. STEPHAN:** Okay. How about now?

19 **DR. ZIEMER:** Good.

20 **MS. MUNN:** Better.

21 **MR. STEPHAN:** That works? Okay. Robert
22 Stephan, S-t-e-p-h-a-n. Dr. Ziemer, a couple
23 of things is -- one -- you know, we started
24 from our office on this Blockson issue in terms
25 of a public way last year this time, in

1 November. So I want to thank the working group
2 and the Board for being so deliberative on the
3 Blockson issue because this all could have been
4 decided a year ago and -- and maybe in a way
5 that we didn't have that much confidence in.
6 So I feel like the -- you know, the effort that
7 needs to be made is being made and -- and we
8 are thankful for that. We look forward to the
9 resolution that comes from this issue about
10 thorium. And so our understanding is, if I
11 heard correctly, that no vote today on the
12 Blockson SEC, but you're going to hopefully
13 vote -- if this thorium issue is resolved to
14 everyone's satisfaction -- in January. Is that
15 right?

16 **MS. MUNN:** That's our goal.

17 **DR. ZIEMER:** That would be the --

18 **MR. STEPHAN:** That's the goal.

19 **DR. ZIEMER:** Right. That's, I think, the final
20 issue to be addressed on Blockson. As far as
21 we know, that will close all the issues and
22 we'll be ready for action.

23 **MR. STEPHAN:** Okay. As we have said in the
24 past and we will say in January, you know, from
25 our perspective the issue before the Board -- a

1 major issue before the Board is do you accept
2 the data being used from the Florida site and -
3 - and applying that to Blockson. And our
4 position is that -- that you should not. I
5 mean I know NIOSH disagrees with that. We
6 respect that wholeheartedly. If -- if you are
7 a -- a NIOSH staffer, if you are a health
8 physicist, if you're a Board member even,
9 maybe, you know, it may pass muster that
10 scientifically you believe it's okay to use
11 data from one site and apply it to another.
12 From our perspective, and I think the
13 perspective of the claimants and the workers,
14 that doesn't pass the smell test for them. And
15 so that's the one thing we would continue to
16 ask you to keep in mind is whether or not we
17 can apply data from this Florida site to
18 Blockson with integrity and have integrity in
19 the process. So we -- we believe that you
20 can't, and so that's the one thing I want you
21 to keep in mind as you continue to go forward
22 with this and -- and you head towards a vote in
23 January. Okay? Thank you.

24 **DR. ZIEMER:** Thank you, Robert, and certainly
25 we'll remain cognizant of that issue as we

1 proceed.

2 Board members, any other questions for the
3 working group on Blockson, or comments?

4 **DR. MELIUS:** Yeah, I --

5 **DR. ZIEMER:** Dr. Melius, you have a --

6 **DR. MELIUS:** I just have one thing that's come
7 up since the workgroup meeting this morning. I
8 want to sure that well before our January
9 meeting that we've made available workgroup
10 minutes and the -- the record of those meetings
11 that are available to the petitioners and so
12 forth. I don't believe that our last workgroup
13 minutes have been -- are publicly available yet
14 and I -- I think that's something we can talk
15 tomorrow when --

16 **DR. ZIEMER:** In fact that --

17 **DR. MELIUS:** -- on that issue --

18 **DR. ZIEMER:** -- it is on the agenda tomorrow.

19 **DR. MELIUS:** -- the agenda, but I just want to
20 make sure that everyone's alerted to that as a
21 -- as a issue in terms of scheduling for
22 Blockson.

23 **DR. ZIEMER:** Thank you. Any other comments on
24 Blockson?

25 (No responses)

FERNALD

1
2 Okay, let's proceed with Fernald and the chair
3 of that workgroup is Brad Clawson. And Brad,
4 give us a status report and a little bit of
5 your idea of path forward there on Fernald.

6 **MR. CLAWSON:** Okay. And August 8th was the
7 first time that we met as a working group. And
8 as usual in the start of this, we had a lot of
9 new information that working group nor -- nor
10 SC&A have been able to review or go forth. We
11 originally made it clear through the matrix,
12 but with all this new information we wanted to
13 be able to have time to be able to get it on
14 the O drive, plus be able to review it. So at
15 this time NIOSH has put -- it appears to be
16 most of the information that was requested onto
17 the O drive. We've got a working group
18 scheduled for October 25th -- 24th, and we're
19 going to continue on from there.

20 **DR. ZIEMER:** Okay, thank you. Any questions
21 for this workgroup?

22 **DR. WADE:** We do have on the phone I believe
23 Ray Beatty, who would like to make a comment --

24 **DR. ZIEMER:** Okay.

25 **DR. WADE:** -- on Fernald.

1 **DR. ZIEMER:** We'll hear from Ray Beatty then.

2 **DR. WADE:** He's a very nice gentleman who's
3 spoken to us.

4 **DR. ZIEMER:** (Off microphone) (Unintelligible)
5 petitioner?

6 **DR. WADE:** Yes.

7 **DR. ZIEMER:** Ray Beatty I believe is one of the
8 petitioners.

9 **UNIDENTIFIED:** Or a representative.

10 **DR. ZIEMER:** Or -- is he a representative?

11 (Whereupon, several Board members spoke
12 simultaneously.)

13 **DR. ZIEMER:** Representing the petitioners, yes.

14 **UNIDENTIFIED:** (Off microphone)
15 (Unintelligible) Sandra Baldrige.

16 **DR. ZIEMER:** Okay.

17 (Whereupon, several Board members spoke
18 simultaneously.)

19 **DR. ZIEMER:** No --

20 **DR. WADE:** Okay, Sandra Baldrige, she's the
21 petitioner.

22 **DR. ZIEMER:** Yeah, she can speak, sure.

23 **DR. WADE:** Okay.

24 **MS. BALDRIDGE:** I have a question. At the
25 working group NIOSH said that they would be

1 sending revisions of the site profile as they
2 were developed. I was wondering if the Board
3 has received any of those revisions.

4 **DR. ZIEMER:** Okay. Thank you, we'll -- Brad,
5 can you or someone from NIOSH tell us the
6 status of those revisions that they're -- are
7 referred to?

8 **MR. CLAWSON:** Not -- not at this time that --
9 we haven't received anything on that.

10 **DR. ZIEMER:** Are there some Fernald revisions
11 that are in the pipeline that -- okay, Jim
12 Neton is going to --

13 **DR. NETON:** I'm -- I'm not aware, although I'm
14 not 100 percent certain, that there are any
15 revisions that have been released recently.
16 They're being worked on, but I don't think that
17 we formally released any --

18 **UNIDENTIFIED:** No, they haven't.

19 **DR. NETON:** -- updates at this point.

20 **DR. ZIEMER:** Okay. Well, the main thing will
21 be to assure the petitioners that any revisions
22 that are forthcoming are provided. So as far
23 as we know, the petitioners should have
24 everything that the Board has in terms of
25 documents at this point.

1 **DR. NETON:** Yeah, we had just finished on and
2 it's -- it's under -- the internal -- it's
3 under review --

4 **DR. ZIEMER:** Okay, there is --

5 **DR. NETON:** -- but it's not released. And I
6 would say that any revisions, as they come out,
7 are automatically posted on our web site, so
8 they will be available and then --

9 **DR. ZIEMER:** As soon as they're released,
10 they'll be available.

11 **DR. NETON:** As soon as they're released, within
12 a day or so, they're published on our web site.

13 **DR. ZIEMER:** When do you anticipate that? Is
14 that -- is that imminent? Are we talking a few
15 weeks or several months or -- just a -- I
16 (unintelligible) --

17 **DR. NETON:** It's under internal review. It
18 should be a matter of several weeks.

19 **DR. ZIEMER:** Okay, so there should be something
20 coming out -- we're expecting then by the end
21 of October, perhaps.

22 And here's Larry Elliott to add to that.

23 **MR. ELLIOTT:** I haven't seen this document
24 myself, but it -- it may not be released until
25 we're through with the deliberation of the

1 working group, either. There may be some
2 issues that are being discussed in that working
3 group that could hold this document up, so --

4 **DR. ZIEMER:** Yeah, but the point is, there's
5 not another --

6 **MR. ELLIOTT:** There's not --

7 **DR. ZIEMER:** -- document out there --

8 **MR. ELLIOTT:** -- there's not any revisions that
9 have been produced --

10 **DR. ZIEMER:** Right.

11 **MR. ELLIOTT:** -- to date.

12 **DR. ZIEMER:** Okay.

13 **MR. ELLIOTT:** And -- and I'm hesitant to say
14 when we're going to produce this one that was
15 just raised.

16 **DR. ZIEMER:** Right, and also we are making sure
17 that the -- that the petitioners are notified
18 of the workgroup meetings, I believe, and are
19 given an opportunity to participate.

20 Now another comment from the petitioner.

21 **MR. CLAWSON:** (Off microphone) (Unintelligible)

22 **MS. BALDRIDGE:** (Unintelligible) to the
23 revision information before it is posted on
24 line.

25 **DR. ZIEMER:** Could you -- ask her to repeat

1 that, please.

2 **MS. BALDRIDGE:** (Unintelligible) I have access
3 to the revision information before it is posted
4 on line to the public.

5 **DR. WADE:** She would like access before it's
6 posted.

7 **DR. ZIEMER:** None of us have access to the
8 drafts before they're posted for the public.
9 The Board doesn't -- these are agency
10 documents. I believe that's correct. They are
11 not available to the public or to the Board
12 until they are posted.

13 **DR. WADE:** Could we call the petitioner when
14 they're posted?

15 **UNIDENTIFIED:** (Off microphone)
16 (Unintelligible)

17 **DR. WADE:** Let's commit to that.

18 **DR. MELIUS:** But -- can I just comment?

19 **DR. ZIEMER:** Yeah.

20 **DR. MELIUS:** I believe that if there were
21 issues in the revi-- revised site profile that
22 are relevant to the SEC evaluation, those'll
23 come up as part of the discussion to the
24 evaluation --

25 **DR. ZIEMER:** Or the workgroup --

1 **DR. MELIUS:** -- the SEC workgroup's evalua-- so
2 through that process, that information should
3 be -- make that --

4 **DR. ZIEMER:** That would be available --

5 **DR. MELIUS:** -- (unintelligible) available --
6 available (unintelligible) --

7 **DR. ZIEMER:** -- in the workgroup meetings.

8 **DR. MELIUS:** -- available to the petitioners
9 and -- and to the public, so it -- it may not
10 be the entire site profile revision, but it may
11 be --

12 **DR. ZIEMER:** The sort of issues, yes.

13 **DR. MELIUS:** Yeah, that's been our past
14 practice and --

15 **DR. ZIEMER:** Right, thank you. Okay, any
16 further comment from the petitioner on this?

17 (Pause)

18 No. Thank you.

19 **DR. WADE:** What about Ray, is -- does Ray still
20 want to make a comment?

21 (No responses)

22 Ray Beatty?

23 (Pause)

24 **MR. BEATTY:** Yes, Dr. Ziemer?

25 **DR. ZIEMER:** Yes -- okay.

1 **MR. BEATTY:** Hello?

2 **DR. ZIEMER:** Tell him to go ahead, yes.

3 (Pause)

4 **MR. BEATTY:** Yeah, Dr. Ziemer, this is Ray
5 Beatty calling on behalf of Fernald petition,
6 and my comments are the fact that when we were
7 at the last workgroup meeting there were
8 several mentions of revisions that have
9 occurred. And I'm not real sure that we have
10 been afforded the privilege to see these
11 revisions prior to the -- the next meeting, or
12 when these revisions are being made, we -- we
13 learn of them at the workgroup meetings. I
14 just think that there ought to be an
15 opportunity that the petitioner should get to
16 review these prior to the workgroup meeting, if
17 that is possible. Not so much the date of --
18 of putting them on line.

19 **DR. ZIEMER:** The day that they're put on line
20 is basically the day they're released and the
21 day that the workgroup gets them so that
22 they're available to everybody at the same
23 time. That would not necessarily coincide with
24 a workgroup meeting, so -- in other words, if
25 they're -- if they're available a month before

1 the workgroup meets, that's when you'll get
2 them. Basically they will be available to you
3 the very same time they're available to the
4 workgroup.

5 **MR. BEATTY:** (Unintelligible) satisfactory,
6 sir. Thank you.

7 **DR. ZIEMER:** Yeah, thank you. Okay, let's move
8 on then to -- oh.

9 **DR. WADE:** Larry needs to clarify.

10 **DR. ZIEMER:** Oh, Larry --

11 **MR. ELLIOTT:** I just want us to be clear here.

12 **DR. ZIEMER:** (Unintelligible) if I misstated
13 that.

14 **MR. ELLIOTT:** No, no, I -- I don't think you
15 did. I -- I want us to be clear. We want the
16 petitioners to have all the available
17 information that the working group's working
18 with. But I think what Ray was speaking of may
19 have been the matrices that the workgroup deals
20 with rather than revisions to the site profile.

21 **DR. ZIEMER:** Well, the matrices will be
22 available certainly.

23 **MR. ELLIOTT:** But the matrices, in some
24 instances, have to be privacy --

25 **DR. ZIEMER:** (Unintelligible)

1 **MR. ELLIOTT:** -- reviewed and redacted --

2 **DR. ZIEMER:** (Unintelligible)

3 **MR. ELLIOTT:** -- I just want it known that
4 that's not my responsibility to make happen
5 quickly. I will put it on the web site and
6 share it with the petitioners as soon as it's
7 given to me in a redacted form.

8 **DR. ZIEMER:** Yeah, if you're talking about the
9 revisions of the resolution matrices, insofar
10 as that has Privacy Act information, that has
11 to go through the redaction process. And Board
12 members may have that sooner than the
13 petitioners since they're permitted to have
14 those documents.

15 **MR. CLAWSON:** Also too there was -- there was
16 many things that we were going to have put on
17 the O drive and we -- we need to make sure that
18 they realize that that's not public --

19 **DR. ZIEMER:** The O drive materials are
20 materials that are not public materials, for a
21 variety of reasons.

22 **MR. CLAWSON:** Right, and we had that --

23 **DR. ZIEMER:** But insofar as those materials are
24 -- can be made public, I guess they will also
25 appear in a public forum, yeah.

1 **MR. CLAWSON:** Right, we have --

2 **DR. ZIEMER:** Insofar as we can legally make
3 them available.

4 **MR. CLAWSON:** We had a lot of different
5 information that was coming up -- our raw data,
6 the OTIB-25, an Excel spreadsheet, Dr. Petty's*
7 report, lab procedures and so forth, and
8 several white papers that are going to be on
9 the O drive. But -- but those are not --

10 **DR. ZIEMER:** Those aren't available --

11 **MR. CLAWSON:** Right.

12 **DR. ZIEMER:** -- at this point, yeah. Okay,
13 thank you for clarifying that.

14 Yes, Jim.

15 **DR. MELIUS:** Again this is for discussion
16 tomorrow, but I'd repeat that I -- I think we
17 need to make sure that we make those available
18 to the petitioners in a timely fashion. May
19 not be contemporaneous with the -- the
20 meetings, but in a way that they have access to
21 them and a way -- can provide input and -- and
22 comment on them, and certainly well before any
23 decisions are -- are reached on a -- on a
24 petition. And we've not been doing a good job
25 of that up till now and we need to be doing

1 better, so...

2 **CHAPMAN VALVE**

3 **DR. ZIEMER:** Thank you. Okay, then let's move
4 on to Chapman Valve. We do want to hear from
5 Sharon Block, who's on Senator -- is she on the
6 line? We'll have to check and see. She's on
7 Senator Kennedy's staff and wanted to make a
8 brief statement prior to the Chapman Valve
9 discussion.

10 **MS. BLOCK:** Thank you. I appreciate the
11 opportunity to make a -- a brief statement. I
12 just wanted to express the Senator's concern
13 about, you know, the ongoing delay in making a
14 decision on this petition. Obviously these
15 petitioners have been waiting years, and I'm
16 anxious to see if any progress has been made
17 since the July meeting. We were somewhat
18 concerned that -- that we didn't hear or that
19 the Board didn't hear from the Department of
20 Energy till September 25th, when I believe
21 [Name Redacted]* letters went out at the
22 beginning of August.

23 And also I -- I have some questions about some
24 documents that the constituents have provided
25 to us suggesting some activity related to

1 Chapman Valve as far back as 1945, but maybe it
2 makes more sense to hear the update on -- on
3 what the Department of Energy and Department of
4 Labor have come up with during this intervening
5 time, and maybe then after that we can talk
6 about whether these documents are -- are things
7 that -- that the Board is aware of or not.

8 **DR. ZIEMER:** Okay. Thank you, Sharon. We'll -
9 - if you'll stay on the line you'll hear some
10 updates, and then if you have additional
11 comments, we'll be pleased to hear those.
12 Board members, you should have the packet that
13 Dr. Wade distributed -- actually two packets.
14 One -- the first part of that packet is a
15 letter from Dr. Wade to Dr. Worthington at DOE.
16 Then there's a copy of Dr. Wade's letter to
17 Pete Turcic of Labor. And then you'll see a
18 copy of Pete Turcic's response relative to
19 Chapman Valve, and a copy of Pat Worthington's
20 response. And then there are some supporting
21 documents as well in the other packet.
22 And I think Pat Worthington is prepared to tell
23 us ba-- basically I think what Labor has said
24 is that if -- if Department of Energy comes up
25 with additional information that would cause

1 them to change the -- the definition of the
2 covered periods and so on, that they would then
3 have to consider that. But let's hear from Pat
4 Worthington on the status of what Energy is
5 doing relative to Chapman Valve. Pat?

6 **DR. WORTHINGTON:** Good afternoon, and thank you
7 again --

8 **DR. ZIEMER:** Tip the mike down, if you would.

9 **DR. WORTHINGTON:** Just a little bit? Can you
10 hear me better now?

11 **DR. ZIEMER:** That's good.

12 **DR. WORTHINGTON:** Is that much better? Good
13 afternoon, and we wanted to give you an update.
14 If you have the package, it'll be a little bit
15 more thorough than -- than my discussion.
16 In terms of the time that it's taking us to
17 answer the question, we certainly don't -- we
18 want to be thorough. We want to be as complete
19 as possible and to follow all the leads that we
20 have so we can -- so that was one of the
21 reasons that it took so long to do that.
22 NIOSH asked us to -- to research whether or not
23 contaminated manifolds which -- were
24 transferred from Y-12 back to Chapman -- to the
25 Deen* Street location, and we've be-- we're

1 working on that. We queried a number of
2 sources and could not find documentation to
3 support this activity. We have a lot of
4 evidence and documents that it was clear that
5 they were -- purchased valves and manifolds
6 from Chapman Valve.
7 We were also able to substantiate the War
8 Department -- Navy had contracts with Chapman
9 Valve. We also found documentation from the
10 Navy that Deen Street did actually exist.
11 Rad work was for Brookhaven, we did find that
12 in the main Chapman location. We found no
13 evidence of AEC work that took place at the
14 Deen Street location.
15 You have in your package the document that will
16 list all the various sources that we used, and
17 I had mentioned yesterday in an earlier
18 discussion that we also engaged the Office of
19 Legacy Management at the Department of Energy.
20 They have experience and knowledge and depth in
21 doing these kinds of things. They helped us to
22 further research the various documents that you
23 will see listed in the package here.
24 I don't know if you have any other questions or
25 if there are any specific things about this

1 particular activity, but I will -- will go now
2 to sort of -- again, to re-emphasize the
3 conclusion section of the report in terms of
4 what we did find, that each known record
5 collection in the custody of the agency with
6 information about Chapman Valve Manufacturing
7 Company has been thoroughly (unintelligible),
8 and any documents identified were retrieved and
9 reviewed. It's clear that they -- they did
10 have numerous contracts, but we didn't find the
11 evidence that we were specifically asked to
12 look for by NIOSH.

13 **DR. ZIEMER:** Let me ask, Dr. Worthington, from
14 DOE's point of view, do you then consider this
15 issue closed or is it -- is there something
16 ongoing yet on Chapman Valve?

17 **DR. WORTHINGTON:** We have nothing ongoing on
18 Chapman Valve. This is the conclusion of our
19 query. Unless there's some other specific
20 question or document that we have not looked at
21 or looked for, we would have to be given an
22 additional source to request. We think we've
23 looked at --

24 **DR. ZIEMER:** Right.

25 **DR. WORTHINGTON:** -- all the sources, based on

1 the information that we had.

2 **DR. ZIEMER:** And lacking that, then Labor's
3 position would be as stated by --

4 **DR. WORTHINGTON:** I would have to --

5 **DR. ZIEMER:** -- Pete Turcic --

6 **DR. WORTHINGTON:** -- defer to Labor --

7 **DR. ZIEMER:** -- I believe.

8 **DR. WORTHINGTON:** -- on that.

9 **DR. WADE:** Jeff Kotsch.

10 **DR. ZIEMER:** Jeff is nodding yes. And so I
11 think with that -- that was the only open issue
12 on Chapman, was it not?

13 Now as far as I know, the workgroup has -- has
14 not met further because there was not any
15 additional information for them to review. Is
16 that correct, Dr. Poston?

17 **DR. POSTON:** Yes, that's correct.

18 **DR. ZIEMER:** So basically on Chapman we are
19 back to where we were originally, as far as the
20 workgroup's recommendation was concerned.
21 Let me ask Sharon if she has any additional
22 questions at this point.

23 **MS. BLOCK:** I do actually have a question
24 because I believe it was a constituent had made
25 available to us some documents related to

1 Chapman Valve, as I said before, dating back to
2 1945. So I guess I would have a question for -
3 - for Dr. Worthington as to whether the
4 Department has seen these and -- and whether
5 that influences their decision that there's
6 nothing else to look at with regard to Chapman
7 Valve. These are Stone and Webster Corporation
8 correspondence to the district engineer at Oak
9 Ridge, and they refer to contracts with dates
10 1944 to 1945, and the contract numbers are the
11 same as the contract numbers listed -- let's
12 see, it's in the last page of the attachment on
13 Dr. Worth-- Dr. Worthington's September 25th
14 letter, the DOE environmental management file
15 room list that lists some contracts for Chapman
16 Valve with the dates 1948, but these Stone and
17 Webster documents that -- that were made
18 available to us have that same contract number
19 but dates 1944-'45.

20 **DR. ZIEMER:** Okay, stand by.

21 **DR. WORTHINGTON:** We would actually need to see
22 that document. If we could -- could get it we
23 could cross-reference against the list that we
24 have and we could get back to you on that. So
25 if someone can make that available to us, we

1 would -- we would certainly look at it and make
2 sure it's something that was included in our
3 search. It didn't seem obvious from the quick
4 list that I was looking at here.

5 **DR. ZIEMER:** So it's not clear that you've seen
6 the document that they refer to --

7 **DR. WORTHINGTON:** That she's talking about,
8 yes, that's correct, so we would need to look
9 at that.

10 **DR. ZIEMER:** Okay. Thank you.

11 **DR. WORTHINGTON:** Thank you.

12 **DR. ZIEMER:** Comment? Yeah.

13 **MR. GRIFFON:** Yeah, I guess there's other
14 information, too. The interview -- I mean the
15 main source of this, you know, concern about
16 the Deen Street facility came from an interview
17 conducted by SC&A, and in that interview the
18 individual interviewed identified a few people
19 from the Manhattan Project or Stone and Webster
20 -- at least that's my understanding. And I
21 think -- you know, I don't know if that thread
22 has been pulled at all, you know, to see if
23 there's any documents that exist for these --
24 from these individuals or...

25 **DR. WORTHINGTON:** Is your question did we look

1 at the information from the affidavits or
2 interviews to help us target our searches?

3 **MR. GRIFFON:** Yeah.

4 **DR. WORTHINGTON:** We certainly looked at that
5 information, used it to help focus our review
6 and to come up with the list of documents that
7 we felt we needed to look at.

8 **MR. GRIFFON:** Okay, and -- and I think she also
9 indicated in the interview that they received
10 parts from, and I -- I don't -- I -- I know you
11 haven't -- just haven't been able to find or
12 confirm that, is that what you -- what your
13 investigation's showing? Received parts from
14 Y-12, not -- not only made parts for -- you
15 know, and they received parts from...

16 **DR. WORTHINGTON:** (Off microphone)
17 (Unintelligible) comment on that.

18 **MS. CANO:** Right, right. We actually had our
19 Legacy Management staff research, and what they
20 were able to find was that there were Navy
21 contracts for Deen Street facility. However,
22 in querying they looked for Y-12 connection,
23 ORNL connection in regards to anything going
24 back to Chapman. They could not find any
25 documentation to substantiate that.

1 There were many contracts where Oak Ridge did
2 purchase valves and manifolds from Chapman.
3 But actually going back to Chapman, we couldn't
4 find that information.

5 **DR. WORTHINGTON:** We believe that we have
6 pulled the string on all of them, but if
7 there's some specific information or specific
8 reference that you're questioning or you
9 believe was not included, please make us aware
10 of that.

11 **MR. GRIFFON:** Okay.

12 **DR. ZIEMER:** Okay. Well, it appears that the
13 only -- the only possible one is this one that
14 Sharon has just raised that might be
15 interpreted as an open item yet. This Board
16 was deadlocked, as it were, on -- on the
17 Blockson (sic) issue.

18 **DR. WADE:** Chapman Valve.

19 **DR. ZIEMER:** Or Chapman Valve issue, and I --
20 it's not obvious to the Chair that we would be
21 well-served to take another vote today,
22 particularly if there's some question on this
23 particular document. But let me hear from the
24 Board. What is your pleasure?

25 **DR. WORTHINGTON:** Well, we do have individuals

1 back there in -- in Germantown, so if they make
2 this available -- if you tell us the number,
3 we'll certainly double-check that.

4 **DR. ZIEMER:** Yeah, Dr. Poston -- oh, excuse me.

5 **MS. CANO:** Can I say something else? In
6 regards to the contract, it is possible on the
7 '45 that it might have been for purchasing of
8 valves or manifolds. But in regard to actual
9 rad work, that's something we'd have to take a
10 look at. We do have -- we have established the
11 '48 time period for the Brookhaven work, but in
12 regards to the '45 contracts, that's something
13 we'd have to look at. It could be just for the
14 purchase of, you know, manifolds or valves.
15 But again, we'd -- we'd have to look at that.

16 **DR. ZIEMER:** Thank you. Dr. Poston?

17 **DR. POSTON:** I just have a procedural question.
18 Since the period we were considering, the
19 working group was considering, started in 1948,
20 do we have to extend the time period to --

21 **DR. ZIEMER:** Well, not unless there's evidence
22 that it should be extended. I think that was
23 the question at this point.

24 **DR. POSTON:** But it is clear -- I participated
25 in those interviews and it is clear that at

1 least one, and perhaps more folks, did testify
2 that there were manifolds coming back from Oak
3 Ridge into the facility by rail, and they were
4 transferred to truck and then taken to another
5 facility. They were not -- as far as we could
6 tell from the interviews, not taken into the
7 Chapman Valve's facility under -- that's in
8 question, but there's -- the testimony in the
9 interviews made that clear that they did come.

10 **DR. ZIEMER:** Uh-huh.

11 **MR. GRIFFON:** Right.

12 **DR. ZIEMER:** Thank you.

13 **MS. CANO:** Right, and that's something we'd
14 have to do is we would have to change the
15 covered time period. We -- if we could find
16 that information, we'd provide that to
17 Department of Labor. But the question that
18 came in from NIOSH was to substantiate whether
19 or not there were contaminated manifolds from
20 Y-12 back to Chapman, and so that was what we
21 were querying.

22 **DR. ZIEMER:** Thank you.

23 **THE COURT REPORTER:** Could I get your name,
24 please?

25 **MS. CANO:** It's Regina Cano.

1 **THE COURT REPORTER:** Spell the last name,
2 please.

3 **MS. CANO:** C-a-n-o.

4 **DR. ZIEMER:** Okay. Other comments, Board
5 members? What is your pleasure here, do you
6 wish to postpone further action till we trace
7 this last document down, or do you wish to --

8 **DR. POSTON:** Of course as the working group
9 chair I'd like to resolve this issue, but right
10 now we're deadlocked on the recommendations
11 from the working group to the Board.

12 **DR. ZIEMER:** The deadlock has the effect of
13 turning down the petition, in -- in effect.

14 **DR. POSTON:** Yeah.

15 **DR. ZIEMER:** Huh?

16 **DR. WADE:** In essence, yes.

17 **DR. ZIEMER:** In essence. So unless there is
18 evidence that would cause Board members to
19 change their votes, then that's where we are
20 and the Chair's suggesting perhaps this
21 additional piece of evidence might have some
22 impact. Otherwise, I -- unless someone wishes
23 to call for a new vote, why --

24 **DR. POSTON:** Yeah. Well, this was just passed
25 around. I haven't had a chance to read it,

1 obviously.

2 **MR. GRIFFON:** Right.

3 **DR. POSTON:** I got it a couple of minutes ago,
4 so perhaps we can talk about this tomorrow if
5 we get a chance, or...

6 **DR. ZIEMER:** Or at the next meeting. Okay.

7 **DR. POSTON:** Or at the next meeting.

8 **DR. ZIEMER:** Jim Lockey.

9 **MR. GRIFFON:** And I don't know that the
10 petitioners have seen this document, either, so
11 we -- we have that same question of --

12 **DR. ZIEMER:** Okay, Jim Lockey?

13 **DR. LOCKEY:** And can -- can the additional
14 information that the petitioner has be
15 researched by Department of Labor by tomorrow,
16 or is that not possible.

17 **DR. ZIEMER:** Department of Energy?

18 **DR. LOCKEY:** Department of Energy, excuse me.

19 **DR. ZIEMER:** That -- I think that's putting a
20 fair burden on them to try to research that in
21 one day. Plus if the petitioners have not seen
22 any of this, that may be an issue as well.

23 **MR. PRESLEY:** Well --

24 **DR. ZIEMER:** Okay. Robert?

25 **MR. PRESLEY:** Did you all check any of the

1 shipping documents, or were you able to find
2 any shipping documents at Y-12 where these
3 things did go back or where they did drop --
4 where they were received down there, what they
5 were?

6 **MS. CANO:** My unders-- my understanding is that
7 we found purchase orders for the manifolds and
8 valves, so they were going from Chapman to Y-
9 12, but nothing going from Y-12 back to
10 Chapman.

11 **MR. PRESLEY:** Okay.

12 **DR. ZIEMER:** Okay. Jim?

13 **DR. MELIUS:** Well, you've sat down, I'll --
14 have another question. I mean does your
15 investigation include going to the field at all
16 and asking people questions or something? I --
17 is this all just a paper exercise in
18 Germantown? I'm just trying to understand what
19 you -- what you do, and I'm sorry, I missed the
20 session yesterday and I may have -- may have
21 talked about this. I'm -- does...

22 **DR. WORTHINGTON:** Our responsibility was to
23 retrieve the documents, research and look for
24 the documents. We certainly take the
25 information that we get, if there've been

1 witnesses or affidavits or whatever that would
2 lead us and help us to focus our -- our actual
3 document reviews in -- in a better way. But
4 we have not, Gina, been engaged in any
5 interviews. We've been looking -- we were
6 asked to look for documentation and so we used
7 the in-- the information we received about
8 witnesses, workers, to help us to focus those
9 reviews, to help target where to look for these
10 actual documents.

11 **DR. ZIEMER:** Thank you.

12 **DR. MELIUS:** Thank you.

13 **DR. ZIEMER:** Okay.

14 **DR. WADE:** I would like us to spend just a
15 moment and be very specific about what's going
16 to happen next so we don't lose this again. As
17 I understand it, Senator Kennedy's
18 representative has documents that have been
19 provided to them that raise issues about the
20 period -- 1942?

21 **MS. MUNN:** '44 and '45, I thought.

22 **DR. WADE:** -- '45, so we need to make sure that
23 those documents get to DOE. And then we need
24 to be clear about our expectation of what DOE
25 will do with those documents. I think a minute

1 spent on that would be -- would be wise.

2 **DR. ZIEMER:** My understanding is that DOE would
3 examine those to determine if they impacted on
4 the covered period. Is this the issue we're
5 looking at? Or is it both the covered period
6 and whether or not some manifolds actually went
7 to the site or left contamination at the site
8 during the transfer, I suppose is part of the
9 issue. Perhaps both of those, and the -- the
10 transfer part might be easy to come -- more
11 easily identified than this contamination
12 issue, which would -- was there an indication
13 that these were contaminated, John?

14 **DR. POSTON:** There was no indication that they
15 were contaminated, as far as I remember.
16 Arjun's here and John's here, maybe they
17 remember. But during the site survey, when the
18 site was being decommissioned, there was at
19 least one sample that was identified as
20 slightly enriched uranium. And all the
21 documents show that what they did at the
22 facility was machine uranium metal that was not
23 enriched, so --

24 **DR. ZIEMER:** So the question of where did that
25 come from.

1 **DR. POSTON:** Yes. And when we discussed this
2 with folks at the facility, they said well, we
3 did have these manifolds come in. And then I
4 guess the -- we started putting two and two
5 together and said well, these manifolds
6 probably came from Y-12, probably came from the
7 Calutrons, and that could be the source of the
8 enriched -- slightly enriched uranium.
9 There's also a question of whether it really
10 was slightly enriched uranium or not, or was a
11 false positive.

12 **DR. ZIEMER:** Okay.

13 **MS. CANO:** I have a question for clarification
14 purposes on our part. It was -- it's our
15 understanding what -- DOE's role is to
16 designate the AWE, which we have with Chapman
17 Valve. We were under the understanding that we
18 were trying to figure out whether or not Deen
19 Street performed radiological work, and that's
20 the basis for AWE designation. And what we've
21 come up with basically is that we were not able
22 to substantiate that that actually took place,
23 that the Navy actually did have contracts with
24 the Deen Street facility. And based on our
25 search, we could not find any documentation to

1 lead us back to Deen Street pertaining to
2 radiation -- rad work. Chapman is designated
3 as an AWE from '48 to -- I just blanked on it -
4 - beginning in '48 based on work done at
5 Brookhaven, and it was -- it was uranium. And
6 so I'm -- I'm -- I guess what I'm thinking is
7 that some of the contracts that they might have
8 was for the purchase of maybe manifolds or
9 valves, which indeed were just steel-based.
10 They were not radioactive whatsoever. So I'm
11 just trying to figure out what -- what we -- I
12 mean we can look at the document. We will --
13 we will do that. But it's just trying to
14 understand what else you want us to do.

15 **DR. ZIEMER:** Yes, thank you for raising that
16 point. I don't think we were asking about Deen
17 Street per se because that would not affect
18 this petition.

19 **DR. POSTON:** Right.

20 **DR. ZIEMER:** This petition is unique to the
21 main -- other facility. And I think --

22 **MR. GRIFFON:** Unless that was considered part
23 of the Chapman facility, that's -- that's a
24 question, too, (unintelligible) --

25 **DR. ZIEMER:** Well, but it was -- physically it

1 would be a separate facility, as I understand
2 the way these get defined. So even if it's
3 part of Chapman, it would require a separate
4 petition, I believe -- as I understand it -- if
5 that were the case.

6 **MR. GRIFFON:** Well, somebody explain that to
7 me. I'd like to understand that.

8 **MR. ELLIOTT:** It's my understanding the Deen
9 Street facility is a Chapman Valve facility.

10 **DR. POSTON:** Yeah.

11 **MR. GRIFFON:** Right.

12 **MR. ELLIOTT:** Okay? But the Chapman Valve
13 facility that's been designated an AWE, I don't
14 know which street it's on -- I don't recall
15 that -- but that is the contiguous AWE
16 facility. Deen Street is not part of that.

17 **DR. ZIEMER:** And even if they had received some
18 material, it doesn't automatically become part
19 of this because of physical location, or would
20 it?

21 **MR. ELLIOTT:** What -- what we asked DOE to do
22 was to look at the Deen Street facility and
23 determine whether or not it should become an
24 AWE. And the evaluation report you have before
25 you for this SEC petition only deals with the

1 Chapman Valve AWE facility. So we were trying
2 to seek out from -- from DOE whether or not
3 Deen Street should be designated an AWE in of
4 itself.

5 **DR. ZIEMER:** If it were, does that affect this
6 petition? That's sort of what I'm asking.

7 **MR. ELLIOTT:** It would not. It would have to
8 be another petition for that facility.

9 **DR. ZIEMER:** Right. So the outcome of this
10 question doesn't, in a sense, affect this
11 petition. Mark, do you think it --

12 **MR. GRIFFON:** Yeah, I guess I'm going a little
13 uncertain, but --

14 **DR. ZIEMER:** Unless the -- unless the
15 contamination issue --

16 **MR. GRIFFON:** My quest--

17 **DR. ZIEMER:** -- enters into it.

18 **MR. GRIFFON:** Yeah, my question was if -- and
19 this gets a little murky for me between DOL and
20 NIOSH's function in -- you know, defining the -
21 - but if -- in a normal situation, if NIOSH
22 finds that the time period for a petition
23 should be extended, then they'll extend it.
24 Now here the time period's set by DOL already.
25 Right?

1 **MR. ELLIOTT:** The time period of a covered
2 facility --

3 **MR. GRIFFON:** Of a cov-- I'm not talking about
4 a covered facility, though. I -- DOL
5 establishes that, I understand that.

6 **MR. ELLIOTT:** Yes.

7 **MR. GRIFFON:** But in an SEC, if you find reason
8 to believe that, you know, you should extend it
9 longer than the -- than that identified in the
10 petitioner (sic), you'll -- you'll self-
11 identify that sometimes.

12 **MR. ELLIOTT:** If it's within the bounds of a
13 covered facility designation, yes --

14 **MR. GRIFFON:** So here we have --

15 **MR. ELLIOTT:** -- we can do that.

16 **MR. GRIFFON:** -- a circumstance where we're
17 saying, you know, there may be other work prior
18 to the defined time period --

19 **MR. ELLIOTT:** But the AWE does not cover 1945.
20 It starts at '48. And I'm not sure when this -
21 -

22 **MR. GRIFFON:** But it's the same facility, and
23 if DOL changed their designation, then the same
24 -- I don't know, I -- I...

25 **DR. WADE:** Right. Well, I -- let's we -- let's

1 clear them up one at a time.

2 **MR. GRIFFON:** Yeah.

3 **DR. WADE:** There seems to be information that -
4 - that goes to the issue that the period should
5 be extended from '48 back to '45. That
6 information needs to be looked at by DOE and a
7 judgment made, so that's one issue we've heard
8 today.

9 The second issue we've got is that there's this
10 elevated reading that appears that might have
11 resulted from something on its way from
12 somewhere to Deen Street being off-loaded at
13 the Chapman Valve covered facility, and that's
14 the other part of the issue.

15 What we need to hear from DOE, if this
16 information comes from the good Senator's
17 staff, then you can look at it and determine
18 whether or not it goes to the fact that the
19 covered period should be extended back to '45.
20 That's something you can do?

21 **MS. CANO:** We would be happy to take a look at
22 it. In regards to the DOE designation, DOE has
23 already designated Chapman Valve. In regards
24 to extending the covered time period, that's
25 something that Department of Labor would have

1 to -- to make that decision.

2 **DR. ZIEMER:** But they would do that based on a
3 recommendation from you, or from whom?

4 **MS. CANO:** They -- Jeff?

5 **DR. WADE:** Well, let's --

6 **MS. CANO:** Sorry, I can't speak for Department
7 of Labor.

8 **DR. WADE:** So if someone presents a bit of
9 evidence that -- that argues strongly that
10 there -- that the period should be extended to
11 1945 --

12 **MR. KOTSCH:** Right, that's --

13 **DR. WADE:** -- do you act unilaterally on that?

14 **MR. KOTSCH:** Yeah, right, Department of Labor's
15 responsible under the program for the --
16 additional covered period, if you want to say.
17 Usually it's not on an individual basis based
18 on evidence provided by, you know, a particular
19 claimant. But yes, we extend -- or determine
20 the covered periods.

21 In -- in the case of like Deen Street, if that
22 were an issue, DOE has the responsibility to
23 determine that that's an AWE, and then we would
24 determine the covered period for that
25 particular facility.

1 **DR. WADE:** But that hasn't happened to this
2 point.

3 **MR. KOTSCH:** Yeah.

4 **DR. WADE:** So what we have is the information
5 from Senator Kennedy's staffer that potentially
6 goes to 1945, so that needs to come to you to
7 look at.

8 **MR. KOTSCH:** Yeah, I mean I would recommend it
9 gets sent -- gets sent to Pete then.

10 **DR. WADE:** Send it to...

11 **MR. KOTSCH:** Send it to Pete Turcic.

12 **DR. WADE:** Send it to Pete Turcic. So if that
13 information gets to you, then that's an action
14 item you would look at and could report back
15 on?

16 **MR. KOTSCH:** Yes --

17 **DR. WADE:** Okay.

18 **MR. KOTSCH:** -- I guess (unintelligible).

19 **DR. WADE:** So that's one resolved. Jim?

20 **DR. MELIUS:** I also believe that there are
21 people that -- former workers from the facility
22 that have information from that, and I would
23 hope -- about these early contracts, and I
24 would hope that somehow DOE can manage to
25 interview them or obtain information from them.

1 Our contractor, SC&A, has talked to them, I
2 believe. I'm not sure if the -- the workgroup
3 talked to all of them or whether NIOSH staff
4 has, but -- but certainly that information can
5 be made available and I think can provide some
6 helpful information for this follow-back.

7 **DR. WADE:** And this is --

8 **DR. ZIEMER:** Arjun, did you have a comment on
9 that, or John?

10 **DR. WADE:** Arjun was trying to get out.

11 **DR. ZIEMER:** Oh, no -- no comment?

12 **DR. POSTON:** Well, the -- the workgroup -- the
13 workgroup in its entirety did not participate,
14 but I did participate with Arjun and John. And
15 Arjun wrote a report which was the results of
16 the interviews that was distributed to the
17 workgroup, so...

18 **DR. ZIEMER:** Arjun?

19 **DR. MAKHIJANI:** Dr. Ziemer, the only thing I
20 was going to say is that the published
21 interview is redacted for privacy, and there
22 might be a couple of things in the redactions
23 that might be helpful to the Department of
24 Energy, and we'd be happy to make that
25 available. I don't know what the process is,

1 but --

2 **DR. ZIEMER:** They can have an unredacted --

3 **DR. MAKHIJANI:** Do you -- do you have the --
4 I'm not sure, you have the unre-- okay.

5 **MR. GRIFFON:** Okay.

6 **DR. WADE:** So to get our agencies straight,
7 though, the information -- and this information
8 is going to the Department of Labor to look at
9 the issue of extending the covered period.

10 Okay.

11 Now we still have the contaminated manifold
12 issue to deal with if we want to. Or is that
13 done now in everyone's mind?

14 **MR. GRIFFON:** Well, it's not done.

15 **DR. ZIEMER:** Well, I'm not sure what we'd do
16 with that, other than -- that -- that issue was
17 the one that triggered this whole question,
18 where did the U-235 come from. Would that in
19 any way affect the Chapman Valve findings, the
20 fact that there was this contamination at the
21 transfer point?

22 **MR. GRIFFON:** It -- it only affects it in -- in
23 my -- in my mind, anyway, it only affects it in
24 that it's something that we -- we can't
25 explain. And I agree with John that -- that we

1 -- you know, we -- we've also heard that it
2 could be due to laboratory error. I mean it
3 could be within the error of the lab. But it's
4 something that we haven't been able to explain.
5 And with this additional -- very detailed
6 interview, I might add, of -- of the accounts
7 of materials coming from Y-12, it -- it raises
8 the question of was there something else going
9 on at Chapman. I mean we -- we didn't even
10 know about Deen Street -- I still think of Deen
11 Street as part of the Chapman facility, quite
12 frankly, just wasn't known when they put --
13 when DOL put their site list together. But now
14 this raises a question of were there other
15 activities. I think if we knew what they were
16 and they were -- they were dealing with some
17 slightly enriched uranium and that was it, I
18 don't think it would change the conclusion.
19 But it just raises that question of what else
20 went on there and can we make sure we have
21 covered the breadth of the operations that were
22 going on at Chapman.

23 **DR. ZIEMER:** Well, it appears to me that we've
24 gone as far as we can today on this, that we
25 need to hear the outcomes --

1 **MR. GRIFFON:** Yeah.

2 **DR. ZIEMER:** -- and then go from there. Larry,
3 you have an additional --

4 **MR. ELLIOTT:** I just want to be --

5 **DR. ZIEMER:** -- comment or --

6 **MR. ELLIOTT:** I want to be --

7 **DR. ZIEMER:** -- advice for us?

8 **MR. ELLIOTT:** I want to be clear for the record
9 that we have provided Department of Energy and
10 Department of Labor the non-redacted
11 information that has been assembled both from
12 our levels of effort and SC&A's levels of
13 effort, and we've provided that to them in an
14 unredacted form.

15 The Deen Street facility goes to whether or not
16 it should be designated as an AWE, and that
17 goes to DOE to decide.

18 The extension of time for the current AWE at
19 Chapman Valve goes to DOL, and I think if --
20 you're right, if the -- if Senator's staffer
21 can provide that information to DOL, they can
22 look at that and determine whether or not the
23 covered period for the current AWE is
24 appropriate and accurate, or needs to be
25 adjusted.

1 I don't know what you do about the Deen Street
2 facility from this point. I think DOE is still
3 looking -- as you've heard them, they're still
4 looking for information that would tell them
5 whether or not it should be an AWE or not.
6 That's -- I just wanted to (unintelligible) to
7 say to you that we have given up everything
8 that we have, in an unredacted form, to the
9 right Departments for the right decision-
10 making.

11 **DR. ZIEMER:** Okay, thank you very much. Yeah,
12 Brad?

13 **MR. CLAWSON:** Well, and I just wanted to go
14 back to some of the comments that have been
15 made by some of the petitioners and so forth,
16 my understanding of it is they -- they actually
17 felt that the Deen Street was just part of
18 Chapman Valve, it was doing another process of
19 Chapman Valve. And this is -- this is what has
20 -- I -- I guess convoluted some of the things
21 that have gone on there, but in the
22 petitioners' eyes also, too, Deen Street was
23 just part of Chapman Valve and they had
24 processes that were going on and they were
25 showing -- they were telling us, you know, and

1 they -- they've been pretty good to be able to
2 show us so forth and that -- that's where I
3 think some of the confusion comes in.

4 **DR. ZIEMER:** Okay, thank you. Jim Lockey, do
5 you have an additional comment? No, okay.

6 **MR. GRIFFON:** I only had one -- one last thing.

7 **DR. ZIEMER:** Yeah.

8 **MR. GRIFFON:** One -- one last thing, a little -
9 - it was the other aside that we asked about
10 follow-up on and that was the documentation
11 from -- from later activities, the -- when this
12 facility was cleaned up and when they disposed
13 of it did anyone find any more records related
14 to the cleanup process or the waste that was
15 shipped or any of that information. I -- it
16 might be in your report. I'm glancing at it
17 while I'm trying -- while we're trying to talk
18 here, but did DOE or NIOSH find anything
19 related to the cleanup -- I think it was '90 or
20 '92 when they -- they did the cleanup process.
21 We have the -- the cover report, but is there
22 any detail. And my curiosity on this is if we
23 see a certain number of grams of U-235
24 manifested, that at least supports this
25 question of was there, you know, really U-235

1 there -- maybe it supports it, anyway.

2 **DR. NETON:** We don't have any information to
3 add on that time period. That's still listed
4 as reserved, I think, in the evaluation report.
5 It was not specifically evaluated as part of
6 this SEC petition.

7 **MR. GRIFFON:** Oh, but I had asked for the
8 information so that it could maybe answer some
9 questions about quantity and type of materials
10 --

11 **DR. NETON:** Well, we don't have any more
12 information to offer at this time.

13 **MR. GRIFFON:** Okay. All right.

14 **DR. ZIEMER:** This Board is not in a position of
15 tasking either the Department of Energy or the
16 Department of Labor to do things, but I --

17 **MR. GRIFFON:** Yeah.

18 **DR. ZIEMER:** -- I do want to ask if both Labor
19 and -- and Energy would be willing, if you get
20 these doc-- I think you're going to get the
21 documents from the Senator's office, and if
22 you'd be willing to report to us at our next
23 meeting what you find from those documents, and
24 if it has any impact on Blockson, either in
25 terms --

1 **DR. WADE:** Chapman.

2 **DR. ZIEMER:** -- or Chapman, I get -- get off of
3 Blockson here -- Chapman in terms of either
4 time period or the -- or the Deen Street
5 location, that would be helpful to us.
6 Basically this is going to leave things hanging
7 for another meeting. But in the absence of
8 that, I think we're going to be at the same
9 place anyway. We're not going to resolve that
10 today, and perhaps this additional information
11 will help us come to some kind of closure if
12 you'd be willing to at least tell us what
13 you've learned 'cause clearly the Senator has
14 indicated that they're going to provide this --
15 these documents to you. So I assume you'll
16 need to follow up, in any event, since the
17 Senator has asked that that be done.

18 **DR. WADE:** The Board has a call on December 6th
19 as the next time the Board will be together.

20 **DR. ZIEMER:** If -- if that information is
21 available by then, that would be good.
22 Otherwise we'll have to wait to our full
23 meeting.

24 **DR. WADE:** Which is January 8th, 9th, and 10th
25 of next year.

1 **DR. ZIEMER:** Okay. Jim, you have a comment
2 here? No.

3 **DR. MELIUS:** My only comment is that it's not
4 clear from the DOE report that -- that the
5 interviews and so forth that NIOSH made
6 available to them were reviewed. They may
7 have, but just in glancing through, I don't --
8 I don't see that and so...

9 **DR. ZIEMER:** But that could be clarified.

10 **DR. MELIUS:** May be confusion, but again, all
11 the reason to let's have some follow-up and
12 give that some time.

13 **DR. ZIEMER:** And Jim Lockey?

14 **DR. LOCKEY:** Just for my own clarification, by
15 the next meeting are we going to get additional
16 information about Deen Street?

17 **DR. ZIEMER:** What I've asked is that both -- if
18 both Labor and DOE are willing to tell us what
19 the outcome is when they see the documents from
20 Senator Kennedy's office, if that -- in their
21 judgment -- has any impact on either the
22 location designation, Deen Street, or the time
23 of the covered period.

24 **DR. LOCKEY:** Okay, so if there's -- if there's
25 no additional information on Deen Street, then

1 --

2 **DR. ZIEMER:** Deen Street is -- as I understand
3 it, is not a covered facility. Is that -- is -
4 - it's -- it's differentiated, even though some
5 of the workers may regard it as part and
6 parcel, Brad, of the same thing, apparently
7 it's not covered as a physically separate
8 entity -- as I understand it, and I think
9 that's how NIOSH understands it and -- and
10 Energy, as well. And Labor, as well. Okay.
11 So --

12 **DR. WADE:** But Dr. Lockey's -- looks puzzled.
13 I think the issue is if there were things going
14 on at Deen Street that caused radioactive
15 material to be shipped through the covered
16 facility, that's important for us to know.

17 **DR. LOCKEY:** I think that -- you said it much
18 more articulately than I could. I think that's
19 the question and I think --

20 **DR. ZIEMER:** That's what we're hoping to learn,
21 if that in fact, in Energy's opinion, changes
22 the status of Deen Street -- if they're able to
23 make that judgment from the documents that they
24 get.

25 **DR. LOCKEY:** I think the real question is

1 what's -- what's really happening at Deen
2 Street. That's really the most important
3 question. Then a second question, do we extend
4 it back to 1945, and that's a --

5 **DR. ZIEMER:** Yeah, those are the --

6 **DR. LOCKEY:** -- DOE/DOL decision.

7 **DR. ZIEMER:** -- two issues, right.

8 **DR. WADE:** The two issues.

9 **DR. ZIEMER:** We're saying if these documents
10 shed light on either of those two issues, then
11 that would be helpful to us, perhaps in coming
12 to some kind of closure on this.

13 With that I'm -- I think we're going to move on
14 unless someone has some additional words of
15 wisdom.

16 **DOW CHEMICAL**

17 **DR. WADE:** Dow.

18 **DR. ZIEMER:** Dow Chemical -- this is Dow
19 Madison, more specifically. We have some
20 documents -- Lew, can you step us through the
21 documentation that -- the response to your
22 inquiries?

23 **DR. WADE:** No, it was your inquiry, but --

24 **DR. ZIEMER:** Well, my -- okay, I --

25 **DR. WADE:** -- that the Board wrote to the

1 Secretary of HHS.

2 **DR. ZIEMER:** Tell me what I did, will you?

3 **DR. WADE:** Well, you did well, as always, and
4 you led the way. The Board -- the Board, under
5 Dr. Ziemer, wrote to the Secretary of HHS
6 asking the Secretary to -- to interact with the
7 other agencies relative to the questions that
8 had been raised on Dow Madison. The Secretary
9 asked Dr. Gerberding, the Director of CDC, to
10 reply to the Board's letter, which she has now
11 done and that's in your materials.

12 I also am aware of the fact that our colleagues
13 from DOE are here to make some additional
14 comments about Dow Madison. Dr. Branche is
15 passing out the -- the handouts that you
16 brought to us. And I also believe that our
17 friends from the Hill wish to make some
18 comments concerning Dow Madison.

19 **DR. ZIEMER:** Okay, we can start with Robert
20 Stephan again. Robert, do you want to --

21 **DR. WADE:** And Deb Detmers.

22 **DR. ZIEMER:** -- make your remarks now -- or
23 Deb, or both? Do you want to comment at this
24 point?

25 **MR. STEPHAN:** We're just going to come up

1 together, but I think it may be more useful to
2 just go through the discussion about the site
3 and then we'll comment --

4 **DR. WADE:** Okay.

5 **DR. ZIEMER:** Sure.

6 **MR. STEPHAN:** -- after. If our -- if our
7 comment is relevant as your discussion goes,
8 we'll jump up, but I think we want to hear the
9 discussion first, if you don't mind.

10 **DR. WADE:** Okay.

11 **DR. ZIEMER:** Well, one of the -- the issues on
12 -- the Dow issue really had to do with the
13 extension of the covered period, and there was
14 -- the petitioners raised some issues which
15 we're all aware of that suggest that perhaps it
16 needed to be looked into. And so the request
17 went to the Secretary's office to ask both
18 Labor and Energy to look at certain documents
19 that might be considered in -- in changing the
20 covered period. So we -- we did basically get
21 replies from Pete Turcic and Pat Worthington,
22 and the letter from -- from Dr. Gerberding on
23 behalf of the Secretary indicating that the
24 request had been made to Labor and DOE.
25 Labor has basically indicated that they

1 currently are not in a position to change
2 anything unless Department of Energy so
3 designates, as I understand it -- or so
4 suggests. And Department of Energy has been
5 looking into some of the documents. I think
6 that's still in process. And Pat, I don't know
7 if you have any comments on -- tell us where
8 you are -- it's my understanding this is still
9 ongoing.

10 **DR. WORTHINGTON:** It is still ongoing. We want
11 to make sure that we do the best job we can in
12 terms of answering the questions. We've
13 engaged other organizations to help us out.
14 We've actually -- we went to the FBI to ask
15 them to look at those documents. They have
16 some unique techniques, I understand, to be
17 able to -- to see and -- and describe to us
18 what's there. We have not yet heard back from
19 them, but we're pleased that they accepted the
20 assignment and they would do this for us on
21 behalf of the workers.

22 Also we've engaged NNSA within the Department
23 of Energy for them to explain their process to
24 make sure that we understand what was going on
25 at the various sites to see if that could in

1 fact provide some additional insights.
2 We've also contacted the -- the lawyers from
3 the contractor's side of the house, from Dow
4 Chemical, and we -- we've had some exchange and
5 we're -- we're hoping to be able to close with
6 them to get more information from that side.
7 And also there were a number of FOIA requests
8 related to these activities. We -- we
9 expedited those things and also looked at -- at
10 those documents, as well. And so we are at
11 this point still trying to get closure and we
12 hope to hear back from the working group, with
13 NNSA, back with the lawyers, and also to see if
14 there's something on those documents that will
15 give us some -- some real insights. And so as
16 soon as we have that, we will report back to
17 everybody.

18 **DR. ZIEMER:** Okay.

19 **DR. WORTHINGTON:** Thank you.

20 **DR. ZIEMER:** And the timetable on that is
21 probably uncertain.

22 **DR. WORTHINGTON:** It's uncertain because --

23 **DR. ZIEMER:** We will hear from you --

24 **DR. WORTHINGTON:** -- the FBI didn't --

25 **DR. ZIEMER:** -- when you have something.

1 **DR. WORTHINGTON:** -- give us a schedule. Yes.
2 Thank you.

3 **DR. ZIEMER:** Board members, do you have any
4 questions regarding this issue? We don't have
5 an outstanding action to take on Dow unless the
6 time period is extended --

7 **DR. WADE:** Correct.

8 **DR. ZIEMER:** -- in which case then that would
9 have to be considered. So this is, in a sense,
10 kind of a pending issue till we see what
11 Department of Energy learns from this
12 investigation. And again, we appreciate the
13 input that -- that your office has had, Pat, to
14 follow up on this, to pull -- pull the strings
15 and give us some level of -- of confidence as
16 to what was or wasn't done, so -- and now we'll
17 hear from both Robert and Deb.

18 **MS. DETMERS:** Yeah, hi, welcome to Illinois.
19 I'm Deb Detmers, district director for
20 Congressman Shimkus -- and I'll spell that for
21 you, it's Debra, D-e-b-r-a, Detmers, D-e-t-m-e-
22 r-s. And I'd like to introduce two people that
23 rode up with me this morning, Homer Simmons --
24 Homer, you want to stand up? And Homer is a
25 former employee of Dow who's had a pending

1 claim since 2001. And also Mr. Bill Hoppe --
2 you want to stand up, Bill? -- who's also had a
3 pending claim with Dow Chemical since 2001, so
4 I do want to state that they do have pending
5 claims for six years. I do want to point that
6 out. Yes, that is six years that they've had
7 pending claims, and we've been working on it.
8 Neither of them will qualify under the current
9 SEC as both of them started working about six
10 months after the time frame, so neither of them
11 are qualified under the pending claim.
12 Just one comment that Robert and I do want to
13 bring up, and I think both of us do want to
14 bring this up, is -- we do have a question
15 about worker testimony. We have provided a
16 great number of documents to this Board and to
17 Department of Energy. And these are documents
18 that we have produced ourselves, including the
19 document that's now at the FBI. These are
20 documents that, through Dr. McKeel's efforts
21 and through our office, working with Senator
22 Obama's office -- and it's really taken a
23 village and the law firm that we work with --
24 that works with us on a pro bono basis -- we
25 have provided boxes and boxes of documents, and

1 all of these documents have not gotten us to
2 the point that we need to be on for this
3 extended period.

4 What we do have -- 11 workers, at a minimum,
5 that have provided worker testimony that all
6 matches. There is no worker testimony that
7 says anything different than what those 11
8 workers say. We have worker testimony that
9 we've taken. We have worker testimony that the
10 working group has seen. At what point -- I
11 guess the question comes -- do we believe
12 worker testimony? At what point does worker
13 testimony get taken at face value, and who
14 makes that final decision? That is, I guess,
15 my stan-- my question.

16 I do want to state one more time, these guys
17 rode out with me to Ohio. They did not ride
18 out with me to Denver, but they did ride out
19 with me to Ohio. They're here again with me in
20 Naperville. They come and see me all the time,
21 and there are lots of guys like them, with
22 cancer, that I see every day. And my question
23 is, at what point do we take worker testimony -
24 - that's not been contradicted -- at face
25 value? And that's my question.

1 **MR. STEPHAN:** That is -- that is exactly the
2 issue from Senator Obama's perspective. He's
3 in total agreement with Congressman Shimkus.
4 But to take that just a step further, at what
5 point do we take worker testimony when there is
6 no document to disprove what they say? And
7 it's an important distinction between no
8 document which proves what they say and no
9 document which disproves what they say. And
10 so, you know, our understanding -- correct us
11 if we're wrong -- is that the whole purpose of
12 the SEC is that when there are no documents,
13 there's -- there's no, you know, exposure data,
14 there's no monitoring data to do a DR, that
15 then we go the -- do go the SEC route. So here
16 we are where we have a document being examined
17 by the FBI. Who knows what the conclusion will
18 be. Either it will -- either it will prove our
19 point or it will simply not prove what the
20 workers have said. It is not a document that's
21 going to be a smoking gun to show that what the
22 workers have said is not accurate.
23 So, Dr. Ziemer, we would, you know, inquire to
24 the Board how -- how can we resolve this
25 question? Because in the Senator's mind and

1 the Congressman's mind, this is not a question
2 that simply can continue to be resolved on a
3 case by case basis. What -- what is the
4 guiding, you know, theory that the Board uses
5 to evaluate worker testimony? Is it -- is it a
6 decision that simply is up to each Board member
7 and we come to a vote and we see how it's
8 evaluated? Or is it something that the Board
9 can -- can reach consensus and say when we have
10 worker testimony and it cannot be disproved by
11 NIOSH, DOE or DOL, then -- then the Board will
12 take the worker testimony at face value. And
13 then further, could the -- could the Board,
14 realizing that you guys are -- are just dealing
15 with NIOSH and not DOE or DOL, could the Board
16 send a letter to the three agencies -- NIOSH,
17 DOE and DOL -- and ask them what their practice
18 is or how they evaluate worker testimony when
19 there are no documents of any kind that
20 disprove what they say?

21 So two questions, one about the Board and one
22 about can we inquire to these agencies.

23 **DR. ZIEMER:** Well, first of all, on the
24 particular issue that we're talking about which
25 is the designation of the facility, this Board

1 in fact does not get involved in that directly.
2 We have inserted ourselves into it in this
3 letter to the -- to the Secretary. But in
4 reality, it is outside of our purview. Both
5 Energy and Labor have described in their
6 letters how they weigh worker testimony and
7 affidavits -- I believe it was in both; I know
8 it was in Pete's and I think, Pat, you may have
9 addressed it as well. But in any event, my
10 understanding is -- and Energy and Labor will
11 have to speak to this -- but in the case of
12 this designation, the ball is in their court in
13 terms of how they weigh the worker testimony
14 vis-a-vis the other documents that are examined
15 and so on.

16 **MR. STEPHAN:** Okay.

17 **DR. ZIEMER:** As far as worker testimony for
18 this Board in terms of say dose reconstruction,
19 we don't have a cut and dried rule that says
20 worker testimony counts a certain percentage.
21 I think Board members weigh -- weigh this in a
22 sense individually. We -- I think we -- we try
23 to take worker testimony seriously and if -- if
24 it gets ignored, we raise the issue with the
25 agency and say basically -- for example, it's

1 one of the questions that has come up in some
2 of our dose reconstruction audits if -- if we
3 raise the question was the worker's testimony
4 taken into consideration in the dose
5 reconstruction. That question has been asked a
6 number of times in the audits. So I think -- I
7 think we try to do that. But this particular
8 issue, I don't think the Board is directly
9 involved.

10 Others may add to that, but --

11 **MR. STEPHAN:** But...

12 **DR. ZIEMER:** We -- we -- as I say, we have sort
13 of inserted ourselves outside of our --

14 **MR. STEPHAN:** Right.

15 **DR. ZIEMER:** -- charter, as it were, and it --
16 to -- to get involved in this and both DOE and
17 Labor have been shall we say courteous enough
18 to say even though it's not your business, we
19 will respond to it.

20 **MR. STEPHAN:** I'm not sure that we have a
21 response from DOL -- maybe Jeff can -- from
22 DOL. Maybe Jeff can help us as to -- and maybe
23 that's in this letter; it's a pretty long
24 response --

25 **DR. ZIEMER:** There was a letter from --

1 **MR. STEPHAN:** -- as to exactly how DOE (sic)
2 weighs worker testimony.

3 **DR. ZIEMER:** It may have been a letter to Dan
4 McKeel.

5 **MR. STEPHAN:** Right.

6 **DR. ZIEMER:** Because I know that Dan has asked
7 that ques-- Dr. McKeel, are you here? Yeah, I
8 -- I know that you have asked that question of
9 both Labor and Energy, did you not, and --

10 **DR. MCKEEL:** Yes, sir.

11 **DR. ZIEMER:** And you may have not been
12 satisfied with their answer, but there was -- I
13 know that Pete gave a response. I couldn't
14 remember if Labor did or not -- or if Energy
15 did or not.

16 **DR. MCKEEL:** Well, my -- my view of it is that
17 that may be considered a partial answer, but
18 what I'd proposed to Pat Worthington yesterday,
19 and still propose, is what's needed is a very
20 direct question such as Robert just posed, and
21 a very direct answer. And that really has not
22 been forthcoming. I would say the answer I got
23 from Labor was convoluted, and it's a very
24 simple question and I think Robert posed it
25 quite well. And you know, Pat said yesterday

1 that maybe the DOE lawyers were going to have
2 to address that and I said that would be great,
3 let's put the question to them in -- a couple
4 of sentences is all it would take, and let's
5 get a similar kind of answer back in a couple
6 of sentence from their lawyers, and then we can
7 present it to the Board and show them. So I --
8 I think that's an important issue.

9 **DR. ZIEMER:** Thank you.

10 **MR. STEPHAN:** And Dr. Ziemer, I just want to
11 draw -- draw a distinction. I mean we -- we
12 respect the -- the role and the
13 responsibilities of the Board and NIOSH and
14 Labor and DOE. But there is a -- a much --
15 there's a big difference between asking these
16 agencies if they have weighed worker testimony
17 and asking them what weight they give worker
18 testimony when there are no documents that --
19 that disprove what the workers have to say. So
20 it's an important distinction.

21 The position of the Senator is that it -- it
22 would be preferred if the Board would adopt a
23 guiding principle as to how you address this
24 issue as a Board if you can reach consensus
25 about how to do that. And then it goes to the

1 issue of what does -- you know, knowing that
2 the Board does not have purview over DOL or
3 DOE, regardless, how do -- how do you evaluate
4 when deciding to vote on an SEC what their
5 decision-making process was relative to worker
6 testimony. So I guess that's a question. May-
7 - maybe you can answer it, maybe you can't.
8 We're not trying to put you on the spot; we
9 just don't know. Do we -- do you accept DOL --
10 Department of Labor and DOE at their -- at face
11 value when they say that they have accepted
12 worker testimony and you go with that, or do
13 you not? Is it a case by case basis, and is
14 there room to discuss that the Board would --
15 would take up this notion of trying to reach
16 consensus about how we deal with worker
17 testimony -- is -- ra-- rather than always
18 going down the route of it's up to each
19 individual Board member. And if we can't reach
20 consensus, that's obviously how you would have
21 to proceed, but -- but there may be consensus
22 here about how you deal with -- with worker
23 testimony when there's nothing to disprove what
24 they say.

25 **DR. ZIEMER:** Well, should we -- let's -- let's

1 say we could reach such a consensus -- we may
2 or may not be able to do that, but should we be
3 able to, I'm not sure that would have any
4 bearing on what either DOE or Labor actually
5 does because we cannot impose our view of that
6 on them. And -- and once -- once they make a
7 determination of let's say an AWE, we may or
8 may not agree with it, but I think -- and I'll
9 ask others -- it's like many other things in
10 this law.

11 We -- we are mandated, in a sense, to proceed
12 as designated in the law. For example, we're
13 not in a position to say well, I don't care
14 what Congress said about the 22 cancers; we're
15 going to use a different number or a different
16 list. So -- so we may disagree on a number of
17 things, either technically or philosophically,
18 but in a sense are bound by sort of the
19 boundaries that are put around us. Sometimes -
20 - sometimes to our dismay and sometimes to --
21 maybe we are in agreement with, but -- so I'm
22 being a little evasive here 'cause I don't know
23 fully how to answer your question. Other Board
24 members may have some views on that, and Dr.
25 Lockey can -- can articulate something here.

1 **DR. LOCKEY:** In relationship to SEC petitions
2 that the Board reviews, there are -- rightfully
3 so, there are DOE worker representatives -- I
4 mean workers on this Board to -- to help I
5 think the Board as a whole understand the job
6 tasks involved when working in the Department
7 of Energy facilities.

8 Second of all, I -- when we heard NIOSH review
9 how they go through an SEC petition, they have
10 outreach programs where they -- as I
11 understand, workers come in and they interview
12 workers and they take notes and they have
13 affidavits to review and NIOSH reviews those
14 with the Board as part of the review process.
15 And so when we look at an SEC petition, there's
16 opportunity to look at those -- the things that
17 workers are saying. And when an issue is
18 raised such as with Chapman Valve about the
19 Deen Street facility, our -- we go back and say
20 we need further clarification about that.
21 I don't know if that helps or not.

22 **MR. STEPHAN:** No, it -- no, it's good to know.
23 Thank you. It -- it sounds like what we need
24 to do then is -- Jeff, maybe if you guys are
25 willing, and Pat is -- to inquire to both DOE

1 and DOL as to -- with this specific question.
2 And if you would -- would not mind, is
3 providing a specific answer as to how worker
4 testimony is weighed when there are no
5 documents to disprove what they say. That --
6 that is the specific question. There's no
7 other question. That's the specific question.
8 And to have both agencies respond in turn,
9 because you both have different roles and
10 responsibilities, we respect that, but the --
11 the document -- the letter you reference from
12 Mr. Turcic is not related to this question, and
13 that question is not answered. This is a very
14 important question for us related to Dow -- a
15 very important question. Okay?

16 **DR. ZIEMER:** Right. Thank you.

17 **DR. WADE:** Just to always be receptive as -- as
18 a board, the other avenue is for you to ask the
19 Secretary of Health and Human Services to
20 expand the charter of this Board to allow it to
21 function in ways that you would like to see it
22 function. That's not the char-- that's not
23 within the charter of the Board now, but you
24 always have that prerogative.

25 **MR. STEPHAN:** Appreciate that. There -- there

1 is no dispute then that the Board must follow
2 the decisions about site designations, et
3 cetera, as they are made by DOL and DOE. You
4 are not -- you do not have the authority to
5 choose to ignore those designations. Is that
6 correct?

7 **DR. WADE:** That is my interpretation of the
8 Board's charter.

9 **MR. STEPHAN:** Okay. Okay. And I believe that
10 Dr. McKeel has a couple more points on this
11 point, or maybe another point, if --

12 **DR. ZIEMER:** Sure, you bet.

13 **DR. MCKEEL:** Oh, I'll -- I'll make it brief,
14 but I do have a couple more things to say about
15 this petition, and they do have to do with the
16 Board. And this gets back to something you all
17 are going to take up tomorrow, which is about
18 the timeliness of transcripts.

19 As I remember the discussion on May the 4th,
20 and as I remember the discussion on July the
21 19th, we all talked about whether the Board had
22 the authority, without any further input from
23 DOE or DOL, to cover the residual period under
24 an SEC. And I made the statement that --
25 bolstered by some input some time ago by [Name

1 Redacted]-- that the law itself which we're
2 talking about does not preclude doing that.
3 And the discussion that I remember is when you
4 were going to write to the Secretary of HHS,
5 that letter was going to result in a legal
6 opinion from HHS on whether in fact my opinion
7 was -- could be upheld or not. In other words,
8 what -- what -- if the law prevents covering a
9 residual period in an SEC, what specific
10 provision of it does that. And I think -- and
11 I -- if that transcript would ever come
12 forward, I think we could all read it. I think
13 you said that there was a question in your mind
14 about whether that was a valid -- that might be
15 a valid point. You didn't say it was; you
16 didn't say it wasn't. But you -- you certainly
17 didn't say that you could rule that out. And I
18 make it as an assertion that I -- it's a
19 testable hypothesis, we would call it. And --
20 and the solution to the hypothesis really needs
21 to be a -- a -- a definitive legal opinion from
22 HHS. So I still think that's on the table.
23 But I would also like to mention that for
24 resolving this whole issue of extending the
25 SEC, there are many other things that I'm still

1 waiting for and that we need. We all need to
2 really evaluate this. When the -- SC&A, for
3 instance, in between the July meeting and this
4 meeting, has furnished an evaluation report of
5 NIOSH's evaluation of the SEC. NIOSH has made
6 an addition to their SEC evaluation. The Board
7 has not considered ei-- any of -- either of
8 those documents.

9 I'm still waiting -- four days after the NIOSH
10 evaluation came out for the SEC, I wrote 14
11 questions to Larry Elliott. He answered six of
12 them and he made eight of them into FOIA
13 requests. I'm still waiting for the final
14 answers to those FOIA requests. I -- I got an
15 interim response May 17th that had many
16 documents that are up on the FUSRAP web site
17 and were not useful to me. But the specific
18 things I asked about about that evaluation
19 report that are down at CDC now in their -- in
20 their FOIA office, I haven't gotten that
21 report.

22 Now I wrote to Dr. Wade about that and he said
23 he had no jurisdiction over the CDC FOIA
24 office. But as a petitioner for Dow, you know,
25 I can't do my part for these men. I feel badly

1 about Homer Simmons. I feel badly about Bill
2 Hoppe. I don't know what to tell them anymore.
3 You know, I -- we've done a lot of things.
4 We've expended ourselves. Now we need some
5 answers and results. And so I would just
6 mention there are a lot of outstanding issues
7 and to the extent that the Board has
8 jurisdiction -- and I think they do have
9 jurisdiction over my central question -- you
10 know, we will follow up with DOE and DOL, and I
11 -- I believe, to put Robert's question even
12 more in perspective, if DOE -- if DOL would
13 accept worker affidavits in the absence of
14 contravening documents, then they would have to
15 conclude that DOW did send thorium-magnesium
16 alloys in large quantities to at least Rocky
17 Flats. And you know, the workers have also
18 testified they went to two other AEC
19 installations.
20 And another issue that I've got to take up with
21 them, they've imposed an additional burden on
22 us. They say well, if you sent thorium alloys
23 to Rocky Flats, even if that was acknowledged,
24 you would have to prove -- I would have to
25 prove, Robert -- our group would have to prove

1 that that thorium alloy was used in nuclear
2 weapons production. And the answer that I've
3 given back is well, I think we can do that. I
4 think we can make a common sense argument that
5 uses that. Even -- we haven't found any
6 documents from Rocky Flats that would support
7 what that was used for, or even that it was
8 received.

9 But my point is -- and I use the analogy of the
10 research I did at Washington University. I had
11 NIH grants that had direct costs that were --
12 that paid for the research, they paid for the
13 test tubes, they paid for the microscopes and
14 all that kind of stuff. We also had indirect
15 costs, and those indirect costs, which were 70
16 percent of the direct costs, went to maintain
17 the building, to have secretaries, to have
18 heat, all that kind of stuff. Well, did that -
19 - did that money contribute to my research? It
20 was essential for my research, and that's why I
21 say that if thorium alloy was sent to Rocky
22 Flats, it had to be used in some way to support
23 -- if it didn't go directly into a nuclear
24 weapon per se, it certainly went to support
25 nuclear weapons and went into nuclear weapons

1 production because that's all Rocky Flats did.
2 That's all the Mallinckrodt uranium division
3 did. There weren't any other functions of
4 those institutions.

5 And so I say logically using, you know, normal,
6 intellectual, intelligent reasoning, that
7 argument should prevail. And I -- I think
8 we're due at this point a similar reasoned,
9 intelligent argument back from DOE and DOL why
10 I'm wrong, and -- and we haven't gotten it yet.
11 So our job, as I see it, is to pursue that
12 vigorously in a straightforward way and expect
13 a prompt and equally rigorous answer back and
14 then we can come to that.

15 But I -- the -- the thing I would ask the Board
16 is to please consider asking HHS for a similar
17 direct answer, can the Board approve an SEC to
18 cover the residual period of contamination, yes
19 or no? And I think that's a straightforward
20 question and I -- I -- I honestly don't think
21 it should take more than a couple of weeks to
22 get the answer. So I'm actually begging you to
23 please think about doing that before we get
24 together in January. And please at that point,
25 one way or the other, let me give Homer and

1 Bill a final answer.

2 **DR. ZIEMER:** Okay. Thank you, Dan. Larry's
3 got some comments on this and it has to do with
4 the rule.

5 **MR. ELLIOTT:** Well, yeah, I want to make it
6 clear, there's some con-- there's a lot of
7 confusion around what's happened here with Dow.
8 The NIOSH SEC evaluation report that you took a
9 vote on and -- and the Secretary has designated
10 a class on dealt with our inability to
11 reconstruct thorium exposures during the
12 covered period. Thorium was not an AEC
13 activity, according to the designation of the
14 facility by the Department of Energy, during
15 their operations for the AEC. So in the
16 residual period we did not come forward with a
17 recommendation to add that time frame into the
18 class for -- for this facility because thorium
19 was not covered under the residual period. It
20 was not a covered activity under the residual
21 period. It was covered under the covered
22 period and so we included that in our
23 evaluation and concluded that we could not
24 reconstruct it. So I just want to be clear on
25 that.

1 If we had come forward with an SEC evaluation
2 report that said during the residual period
3 there's a component of dose that we cannot
4 reconstruct, we would have done so and I'm sure
5 that the Board, in its wisdom, would have
6 accepted that and moved for the designation of
7 such a class.

8 Yes, Dr. McKeel, the Board can pass a SEC class
9 in a residual period. However, the
10 constraining point here is that thorium
11 activities at this facility were not considered
12 AEC-related, so the residual period is not
13 covered in that regard.

14 I just want to be clear about that. Within its
15 purview, NIOSH has done everything it possibly
16 can do, unless the facility designation for DOW
17 is changed in some regard.

18 **DR. ZIEMER:** Thank you. Robert.

19 **MR. STEPHAN:** And not to belabor this point
20 beyond what we already have, but La-- Larry is
21 exactly right. But the -- our quibble here is
22 not with the decision that NIOSH has made. We
23 respect the roles and responsibilities here.
24 But when we're talking about what -- what you
25 just said, that this thorium beyond the covered

1 period is not related to AEC work, that -- that
2 is what we are disputing because no one has
3 given us any information to tell us that that
4 is actually true. What -- we -- we don't have
5 any. I have another -- I don't know, guys, how
6 many pages of documents did you send from DOE,
7 a couple of hundred maybe on our latest
8 request? Yeah, about 500. We have 600-some-
9 odd from Dow, but none of them actually -- from
10 -- from DOE or from DOL can show us that they
11 have information which says that what the
12 workers say is not true and what -- you know,
13 what Larry just alluded to is in fact -- fact
14 true. It's being accepted as fact, but no one
15 can give us any information to show us that it
16 is fact. So unless DOE or DOL can come to us
17 with some other principle, we have no choice
18 but to think -- to use an analogy here -- if
19 this were a courtroom, that they're not
20 actually going by -- that an eyewitness account
21 is a pretty valuable account, as it would be in
22 a courtroom. The -- the burden of proof in DOL
23 or DOE related to worker testimony is above and
24 beyond a preponderance of the evidence. I
25 don't -- I don't know what -- principle agree -

1 - it -- it really is, other than a principle
2 that is totally counter to what the SEC is
3 supposed to do, which is supposed to help when
4 there are no documents. And what DOE and DOL
5 are saying is if you don't have documents to
6 prove what the workers say is true, then it's
7 not true. So this is -- this is -- this is a
8 big -- a big issue. So I'm just trying to make
9 the point that you have no reason to believe
10 about this thorium beyond the covered period,
11 that it's not related to AEC work, until
12 someone gives us information that shows that
13 it's not. Okay? Thank you.

14 **DR. ZIEMER:** And we understand that and we've
15 heard the argument before, and I think Larry is
16 pointing out that it's not an -- NIOSH doesn't
17 have the purview to make that designation, that
18 the thorium was or was not part of the -- the
19 weapons program. They have been given the AWE
20 designation as it was. And unless that gets
21 changed through DOE and -- and Labor, that's
22 the parameters he's working under.

23 Dan, you have an additional comment on that?
24 Yeah.

25 **DR. MCKEEL:** I promise this is two quick -- Dr.

1 -- I'm sorry, but --

2 **DR. ZIEMER:** That's all right.

3 **DR. MCKEEL:** Yeah, but just the final
4 conclusion is -- but NIOSH does have the wors--
5 worker testimony to consider about -- that --
6 that we contend that Dow Madison -- that some
7 of the thorium activities were AEC-related.
8 That's one point.

9 And the second point is that the other agency
10 involved in all this, the one who originally
11 said that none of the thorium activities were
12 AEC-related, was the U.S. Army Corps of
13 Engineers who remediated the site. And as I've
14 told this Board repeatedly, you know, we went
15 and met with the Army Corps of Engineers in --
16 in June of 2005 and directly asked Mark
17 Bunche*, who's the assistant counsel, for
18 exactly what Robert was talking about: what is
19 your proof? You made this statement in your
20 FUSRAP report of 2000. What -- what was the
21 basis for it? What document do you have that
22 can show that? And they were unable to do that
23 and -- and I -- I have invited the Board, DOE,
24 DOL -- I -- I took your suggestion. You said
25 Dan, you've got to do some work after May 4th,

1 and I've done that. And I've invited them -- I
2 gave both agencies Mark Bunche's address, his
3 telephone number. They can do what we did,
4 call him up and -- and see if he can produce
5 those documents. So I -- I agree, we've talked
6 about it enough. I think we'll do our part and
7 I hope we'll come back with some good news for
8 you.

9 **DR. ZIEMER:** Thank you. Any other comments?
10 That sort of brings us up to date, as it were,
11 on Dow. But here, another comment, okay.

12 **MS. CANO:** Again, it's --

13 **DR. ZIEMER:** DOE.

14 **MS. CANO:** It's -- it's Regina Cano from DOE.
15 Mr. McKeel, I believe with the Army Corps of
16 Engineers, we did contact the program manager
17 for that evaluation, and I believe on Monday or
18 Tuesday she did send a letter to Dr. McKeel and
19 also cc'd us that she went back and looked
20 through her records and could not figure out
21 why she stated that in the public meeting, that
22 she misspoke. That was a mis-- a misstatement
23 on her behalf at that meeting, but -- so...

24 **DR. MCKEEL:** Gina's getting something else
25 confused. Sharon Cotner*, who was -- is the

1 program manager for FUSRAP activities in the
2 St. Louis district, made a comment in a
3 February 2000 meeting that uranium processing
4 at Dow Madison took place from 1957 to '62, so
5 we followed up with her and said we've never
6 heard that before. Nobody's ever heard that
7 uranium processing took place in '61 and '62.
8 But if that's true, of course, it would make a
9 difference in the covered period. And she
10 promptly went back and looked in her records,
11 said they looked and looked and looked and she
12 can find no other evidence other than they
13 processed uranium up through '60, just like the
14 SEC class has it, and that -- in her response
15 back she said I was mistaken. That had nothing
16 to do with the thorium activity at all.

17 **DR. ZIEMER:** Okay, thank you. Who did -- Jim,
18 did you have a comment?

19 **DR. MELIUS:** Yeah, I would just like to thank
20 DOE for coming here to the meeting today and
21 presenting -- I know we've been maybe giving
22 you a little bit of a hard time, but appreciate
23 their efforts and I think it's -- it's useful
24 and would hope that -- could continue to
25 interact and -- in a positive way to -- to

1 settle some of these issues.

2 **DR. ZIEMER:** Thank you. We do appreciate it,
3 Pat, and I've mentioned to Pat to convey also
4 to Glenn Podonsky our thanks as well.
5 Okay.

6 **BETHLEHEM STEEL**

7 **DR. WADE:** One last -- Bethlehem --

8 **DR. ZIEMER:** Bethlehem Steel, we have a letter
9 from Senator Schermer -- Schumer's office, I
10 think. Is that going to be read into the
11 record?

12 **DR. WADE:** Yes. Introduce yourself, please,
13 Richard.

14 **MR. WESTON:** I will.

15 **DR. ZIEMER:** Okay.

16 **MR. WESTON:** My name is Richard Weston, W-e-s-
17 t-o-n. I'm employed by the Centers for Disease
18 Control and Prevention. I work in the
19 Washington, D.C. office of the Director as a
20 public health advisor. My colleague, Jason
21 Broehm, usually attends these meetings. He
22 couldn't. I'm here in his -- his place.
23 Senators -- Senator Charles Schumer of New York
24 has a one-page statement that his office has
25 asked to be presented to the -- to the meeting,

1 and I would like to read that. It's a one-
2 page, double-spaced statement so it might take
3 me three or four minutes to read that.
4 (Reading) Thank you for the opportunity to
5 address this Board on the petition of the
6 Bethlehem Steel Plant in Lackawanna, New York.
7 I appreciate this chance to share my views with
8 you, and I'm going to take this moment to again
9 urge you to add a class to the Special Exposure
10 Cohort for these former nuclear workers.
11 At its last meeting the Board decided to delay
12 any decision on Bethlehem's petition until the
13 working group makes its recommendation
14 regarding the appropriate limitations on the
15 use of surrogate data and site profiles.
16 Though I'm disappointed by the delay, I remain
17 optimistic that the working group's efforts
18 will bring clarity to a process that until now
19 has felt arbitrary and at times capricious.
20 I firmly believe that a policy that establishes
21 limitations on surrogate data, rather than the
22 current ad hoc decision-making process, will
23 lead to a favorable decision on Bethlehem's
24 petition. Any reasonable limits on the use of
25 surrogate data would fall well below the

1 excessive level at which it is employed in
2 Bethlehem Steel's profile.

3 While I do not dispute the usefulness of
4 surrogate data in limited circumstances, over-
5 reliance on it, as in the case of Bethlehem
6 Steel, is unacceptable. As I and many others
7 have expressed repeatedly, the inordinately
8 heavy reliance on surrogate data in Bethlehem's
9 site profile renders the profile unusable. It
10 is not a reliable representation of the plant's
11 real conditions. Under the circumstances, the
12 Board should void the site profile, release the
13 CDC from its futile attempts at dose
14 reconstruction, and declare the employees of
15 Lackawanna Bethlehem Steel a new class of the
16 Special Exposure Cohort.

17 The Energy Employee Occupational Illness
18 Compensation Program was established to repay
19 in some small measure the America's --
20 America's debt to these former Energy workers.
21 Their work was critical to building the nuclear
22 arsenal that brought the Soviet Union to its
23 knees, keeping the Cold War from erupting into
24 a hot war which could have killed thousands
25 upon thousands of people.

1 But tragically, though their hard work saved
2 our nation from violence, America still has
3 wounded veterans of the Cold War. These
4 sickened Energy workers have borne the weight
5 of injury that they spared the rest of the
6 nation. They are fallen heroes of the Cold War
7 and deserve to be treated with the dignity and
8 veneration that a great nation always affords
9 its wounded warriors. It is the least that we
10 can do to fully compensate them for their
11 terrible illnesses, which they have contracted
12 through service to their country.

13 Finally, many of the men and women who are
14 awaiting compensation from this program are
15 aging and unwell. Time is, unfortunately, of
16 the essence now. For these workers, justice
17 delayed will be justice denied. Please move
18 with all due haste to establish compensa-- to
19 establish and compen-- excuse me. Plea--
20 please move with all due haste to establish
21 compensation for our fallen heroes.

22 And that's the statement of Senator Charles
23 Schumer.

24 **DR. ZIEMER:** Thank you very much. And the
25 Senator of course in his letter did focus on

1 the issue of surrogate data, and as you know,
2 we do have a workgroup that is addressing the
3 surrogate data issue. And Jim Melius, perhaps
4 you can give us a brief report because that
5 impacts essentially on -- ultimately on the
6 Bethlehem Steel issue.

7 **DR. MELIUS:** I was just helping my colleague
8 find one of our documents. We actually -- it --
9 -- it's a brief update. We've had a -- SC&A do
10 an inventory on the use of surrogate data among
11 our site profile procedures, I believe it's SEC
12 evaluations and so forth, and they had provided
13 that to the workgroup about three weeks ago.
14 And the workgroup will -- hopefully is having a
15 brief meeting -- it's getting briefer as time
16 goes by -- this afternoon immediately following
17 this meeting to establish our -- our work plan
18 for -- for going forward. But I'd like to
19 certainly thank SC&A for doing the inventory
20 'cause I think it provides a basis for us to be
21 able to evaluate and -- in a fair fashion
22 rather than selecting out arbitrarily -- we'd
23 (unintelligible) better way of -- of
24 approaching this.

25 **DR. ZIEMER:** Thank you very much. So let me

1 ask, Board members, do you have any additional
2 questions on Bethlehem Steel? We're obviously
3 -- be awaiting the workgroup's recommendation
4 relative to this particular case, as well as
5 some others perhaps as well. Questions or
6 comments? Requires no action today, it's
7 basically an update on the status of that
8 particular petition.

9 (No responses)

10 If not, I think we are ready to recess until
11 the public comment period. Do we have any
12 housekeeping issues to take care --

13 **DR. WADE:** No, we do -- we do have our science
14 presentation that we will hear tomorrow.

15 **DR. ZIEMER:** Jim, you can't go home tonight yet
16 then. Okay.

17 **DR. WADE:** You can't go home again, Jim.

18 **DR. ZIEMER:** Okay, let's recess then until
19 7:30, at which time we will have our public
20 comment period.

21 (Whereupon, a recess was taken from 5:15 p.m.
22 to 7:30 p.m.)

23 **PUBLIC COMMENT**

24 **DR. ZIEMER:** Good evening -- good evening,
25 everyone. We're going to go ahead and begin

1 our public comment session this evening. I'm
2 just going to go through the list in the order
3 that we have it.

4 I do want to remind the speakers that the Board
5 has imposed a ten-minute time limit on the
6 speakers. I like to remind people that that
7 should be seen as an upper limit, not a time to
8 be achieved. So -- but that's mainly so that -
9 - as a courtesy to those that are later on the
10 list have ample time to give their remarks as
11 well.

12 So Marilyn Schneider, we have you first, if you
13 want to begin, and then we'll take up from
14 there.

15 **MS. SCHNEIDER:** Are you ready for me?

16 **DR. ZIEMER:** Go ahead.

17 **MS. SCHNEIDER:** My name is Marilyn Schneider.
18 I worked as -- as a secretary at Mallinckrodt's
19 Destrehan and Weldon Spring sites in '57 and
20 '58 while they were refining radionuclides for
21 the Cold War and was unknowingly exposed to
22 radioactive material. I was not monitored for
23 exposure and had no idea what was being
24 produced.

25 As an office worker my skin was exposed to

1 airborne radionuclides and I inhaled
2 contaminated air through the ventilation system
3 and from the open window next to my desk, and
4 drank the contaminated water. My desk and any
5 paperwork I handled were exposed to radioactive
6 chemicals in the air. I was also a mouth
7 breather because I had a deviated septum at
8 that time.

9 Plant workers with and without uniforms ate in
10 the same cafeteria with the office workers and
11 visited the offices. Tables in the cafeteria
12 were often coated with yellow dust.

13 Deformed frogs from ponds on the Weldon Spring
14 site, some with two or three heads and extra or
15 missing limbs due to probable carcinogens in
16 the pond, were brought into the office by plant
17 workers. Other office workers at Weldon Spring
18 also developed cancers. When the radioactive
19 waste was buried, the cleanup crew developed
20 skin cancers.

21 I was in a carpool with plant workers and drove
22 the family car every third day. My car and
23 other cars in the carpool were parked five days
24 a week in the plant parking lot. These
25 vehicles were contaminated in and out with dust

1 from the smokestacks. The plant workers did
2 not wear uniforms and rode to and from work in
3 their street clothes. I rode in these
4 contaminated cars, and was also exposed to dust
5 from the workers clothing. In addition, my
6 family was also exposed from use of the family
7 car.

8 In 1975, 17 years after exposure to radiation,
9 I developed colon cancer with penetration of
10 the cirrhosa* and metasis (sic) to two of eight
11 nodes. The first surgery removed eight inches
12 of colon. I wore a colostomy bag until my
13 second surgery resected the bowel. I was given
14 a 30 percent chance of surviving one year.
15 Despite severe nausea, vomiting, mouth sores
16 and hair loss from two years of high-dose chemo
17 in the veins, followed by two years oral chemo,
18 I did survive. Because my veins blow up due to
19 the two years of chemo in my veins, I now have
20 a port inserted to take the chemo.

21 In 1977 I developed episodic loss of
22 consciousness of undetermined origin, which
23 still continues. After many tests, the causes
24 cannot be determined and I'm taking medication
25 for seizures.

1 1998 I was diagnosed with hypothyroidism and
2 take thyroid medication. Hypothyroidism can be
3 caused by radiation exposure.

4 In July of 2000 I had a pulmonary test which
5 indicates my inspiratory loop is slowed,
6 suggestive of variable intrathoracic
7 obstruction. On the tests I could inhale but
8 could not completely exhale.

9 I was cancer free until diagnosed with breast
10 cancer in 2000, 42 years after exposure. I was
11 treated with a lumpectomy, sentinel node biopsy
12 and radiation.

13 Then in 2001, after pain in my right calf, I
14 was diagnosed with a very rare cancer of the
15 smooth muscle cells called leiomyosarcoma.
16 Soft tissue sarcomas are wildly growing cells
17 from the soft tissue part of the body and
18 include fat, blood vessels, nerves, muscles,
19 skin and cartilage. Lab results didn't show a
20 clear margin after the first two surgeries.
21 The third surgeon said he would take off my leg
22 if he didn't get a clear margin. My surgical
23 chart said it was my left leg. I was very
24 concerned and wanted this error corrected, so
25 the anesthesiologist (sic) marked my left leg

1 "no" and my right leg "yes," and the third
2 surgery removed five inches of fibula, which
3 controls foot movement. The bone was removed
4 from my knee to mid-calf. The bone was not
5 replaced. I was told I would be able to walk,
6 but may have foot drop. Twice a day for one
7 week after surgery I received internal
8 radiation through plastic tubes inserted into
9 the surgical site -- they called it
10 brachytherapy -- then external radiation for
11 another 35 days.

12 Two months after surgery I had excruciating
13 pain in the surgical area and wanted to die.
14 Even morphine was not effective. I could not
15 walk. I could not be carried. I could not be
16 touched. Every test possible was run at the
17 Barnes-Jewish Siteman Cancer Center and there
18 was no diagnosis other than probable nerve
19 damage.

20 Upon research I found that -- I'm calling this
21 LMS for short, the leiomyosarcoma -- is a very
22 rare cancer in the U.S., but a major cancer in
23 Japan because of exposure to radiation from the
24 atomic bomb. LMS is very unpredictable. It
25 can be quiet for a long time, then erupt after

1 20 years. It's a resistant cancer, not
2 responsive to chemo or radiation. This disease
3 progresses from stage one to stage four. I had
4 stage three. I will be monitored by
5 specialists for the remainder of my life. My
6 specialist, [Name Redacted], now tells me if I
7 break this leg they will have to amputate
8 because the only bone in my leg may not heal.
9 A schoolmate who lived within five miles of the
10 Weldon Spring site also developed LMS in a
11 kidney. She did not work at the Weldon Spring
12 plant.

13 The three cancers I've had at this point are
14 totally unrelated. In December 2001 [Name
15 Redacted], a genetic counselor in St. Louis,
16 Missouri, stated that none of my cancers were
17 family related. Her report states most
18 carcinomas arise from somatic mutations that
19 are acquired after birth, such as exposure to
20 carcinogenic agents.

21 In 2004 I developed a fist-sized benign tumor
22 on my uterus. The doctor was going to biopsy
23 until he was told about my leiomyosarcoma. He
24 immediately reacted and said it would require a
25 laparotomy -- I guess I'm saying all these

1 words right -- adheliosis, total abdominal
2 hysterectomy and bilateral salpingoophorectomy.
3 I fully expected this to be another cancer.
4 In March 2006 [Name Redacted], a cancer
5 specialist at Barnes Jewish in St. Pete-- St.
6 Louis, sent a letter to the Department of Labor
7 stating that my cancers were likely
8 environmentally caused, and there is certainly
9 a known association between exposure to
10 environmental carcinogens and radioactive
11 material and the development of cancer. He
12 also stated soft tissue sarcomas are relatively
13 uncommon cancers and there are only 8,000 known
14 cases in the United States. According to [Name
15 Redacted], director of statistics at the
16 Radiation Effects Research Foundation
17 headquartered in Hiroshima, cancer risk from
18 radiation exposure continues throughout life.
19 In May 2007 when my skin and eyes turned yellow
20 as a banana, I was immediately admitted to the
21 hospital and a stint was placed in my bile
22 duct. I was diagnosed with another rare
23 cancer, adenocarcinoma of the bile duct. Ten
24 days later when my bilirubin had decreased from
25 20 to eight -- this is the yellowness -- I

1 underwent Whipple surgery. The surgeon removed
2 my gallbladder, half of my pancreas, part of my
3 stomach and the entire duodenum.
4 Recovery from this cancer was pretty rough.
5 Food couldn't enter the stomach because of the
6 surgery. My oncologist and radiologist tell me
7 there are no statistics on how to treat this
8 cancer. As previously stated, I had the port
9 inserted for the chemo because my veins have
10 collapsed from previous chemo in 1975. This
11 port now enters the carotid artery. It takes a
12 highly skilled phlebotomist to even draw blood.
13 IVs now have to be put in my neck.
14 I had just started chemo and was recovering
15 from surgery when I noticed a small black mole
16 with tendrils on the calf of my right leg. My
17 doctor remarked, looks like trouble, and sent
18 me to a dermatologist for a scraping and lab
19 work. The diagnosis was junctional melanocytic
20 proliferation. He consulted with my
21 oncologist, and my chemo was put on hold until
22 this precancerous melanoma could be excised. I
23 was taking chemo, dealing with a confirmed
24 cancer of the bile duct and another possible
25 cancer, melanoma, at the same time.

1 Then I receive another denial from HHS stating
2 I wasn't exposed to enough carcinogens to
3 warrant four, possibly five, unrelated cancers.
4 I've been denied compensation seven times, more
5 times than Judas denied Christ. In the
6 official report proceedings before the Final
7 Adjudication Branch of the U.S. of Labor (sic)
8 dated 12/14/06, Tom Daugherty, the hearing
9 representative, states that NIOSH and
10 Department of Labor found a 34.63 percent
11 combined probability that my colon and breast
12 and leiomy-- leiomyo was casually related to
13 impairment under the Act. This was prior to
14 the adenocarcinoma of the bile duct. I was
15 scheduled for a closing interview on September
16 13th, 2007 for denial number six. When the
17 interviewer called I told him I had submitted a
18 claim for adenocarcinoma of the bile duct,
19 which he didn't know about until he checked.
20 Then in a letter dated the very next day,
21 September the 14th, HHS denied my claim. This
22 was denial number seven. How could dose res--
23 be -- reconstruction be done so quickly? In
24 addition, this rare bile duct cancer was dosed
25 as gall bladder.

1 My last two cancers are extremely rare. The
2 leiomyosarcoma, about one in a million chance
3 of getting this, but leiomyosarcoma is now
4 being seen in several other sites.

5 The last dose reconstruction states there is no
6 existing model to calculate dose for soft
7 tissue of the calf. How is the rarity of this,
8 or my current cancer, being addressed. Or is
9 it?

10 NIOSH states external doses from stack releases
11 or other radiation sources may have been
12 unmonitored at this site, and there was no
13 workplace data done on exposure to radioactive
14 material. Department of letter -- Labor letter
15 dated 8/16/07 reporting my bile duct cancer to
16 NIOSH states due to my job description I was
17 not exposed to radiation, that I did not handle
18 radioactive materials, and that my job
19 description and probably work -- probable work
20 location would not involve exposure to airborne
21 radionuclides higher than that reported
22 environmental level -- levels.

23 Let me tell you about my possible exposure. I
24 did not handle radioactive material, but had
25 chronic exposure from breathing the air at the

1 plant and in my car, handling paperwork on my
2 desk, eating in the cafeteria with the plant
3 workers, exposure to the paperwork brought into
4 the office by plant workers. The denial did
5 not take into account my breathing airborne
6 radionuclides from the open window by my desk
7 and breathing air from the ventilation system.
8 I never wore a dosimeter badge; therefore there
9 is no record of my internal or external
10 exposure to airborne radionuclide
11 concentrations.

12 I have never smoked and I do not drink. Again,
13 all my cancers are unrelated to heredity. The
14 common tie is the carcinogens I was exposed to.
15 Lastly, a coworker at the same sites with two
16 of the same cancers, colon and breast, was
17 approved. I had chronic exposure to
18 carcinogens without informed consent. I was a
19 human radiation experiment. My medical bills
20 and emotional trauma have been astronomical.
21 If I survive this cancer, I will probably get
22 another.

23 During one closeout with HHS I was told to be
24 sure to let us know if you get another cancer.
25 If this cancer doesn't kill me, you can be sure

1 I'll call when I get another one, even though I
2 was told I wasn't exposed.

3 I physically and emotionally cannot keep up the
4 fight for compensation. I'm about ready to
5 throw in the towel. How many cancers must I
6 get in order to meet the 50 percent probability
7 of causation?

8 And I thank you for your attention.

9 **DR. ZIEMER:** And thank you, Marilyn, for
10 sharing that with the Board.

11 Next we'll hear from Susan Pru* -- did I
12 pronounce that correctly? Yeah.

13 **MS. PRU:** Thank you. That's tough after
14 hearing that.

15 My name is Susan Pru. I'm the [Identifying
16 information Redacted] of [Name Redacted]*. My
17 [Identifying information Redacted] is now
18 deceased -- I'm so upset by hers, I'm sorry.

19 **DR. ZIEMER:** Could you get a little closer to
20 the mike? Thank you.

21 **MS. PRU:** My [Identifying information Redacted]
22 worked at the Y-12 plant. The Department of
23 Energy and Labor confirmed her employment
24 during the covered time of [Identifying
25 information Redacted]. Her diagnosis of breast

1 cancer, one of the 22 covered cancers, was
2 submitted with her claim. We haven't yet
3 received her medical records for the surgical
4 remover -- removal, excuse me -- of the
5 cancerous growth on her tongue, and we're still
6 awaiting her de-- detailed earnings report.
7 We know that [Name Redacted] was a [Identifying
8 information Redacted]. My husband and sister-
9 in-law know that she was in the plant. And
10 according to DOE and the CDC, it wasn't until
11 January of 1951 that all employees were
12 required to wear a badge, regardless of where
13 they worked. [Name Redacted] left employment
14 [Identifying information Redacted] years prior
15 to this.

16 My question for the Board is, why was the claim
17 recently sent to NIOSH for dosage
18 reconstruction when she fit the very criteria
19 for the SEC? She had one of the 22 cancers and
20 worked over the 250 days, and we know that she
21 was in the plant. So I would just love for
22 someone to find out why. Thank you.

23 **DR. ZIEMER:** Thank you very much, and perhaps
24 one of the NIOSH staffers can help you track
25 that down.

1 **DR. WADE:** Department of Labor is here.

2 **DR. ZIEMER:** Or -- or Labor, okay. Thank you.
3 And we'll get you connected with somebody here.
4 Dan McKeel -- Dr. McKeel?

5 **DR. MCKEEL:** (Off microphone) (Unintelligible)

6 **DR. ZIEMER:** I'll give it to Ray, yeah.
7 Thanks.

8 **DR. MCKEEL:** Good evening. These comments
9 tonight are about GSI. No more Dow, I promise.
10 I -- I'd like to complement in these remarks
11 what John Ramspott had to say about GSI and the
12 appendix BB for that site last night.
13 Our group, SINuW, believes this document,
14 appendix BB, is technically highly flawed. And
15 we are happy that SC&A has been tasked to
16 review it and thank the Board for that.
17 John did not mention two reasons we believe
18 appendix BB needs to be changed. These facts
19 were both mentioned in my critique to that
20 document now posted in redacted form on the
21 OCAS web site. Neither of these facts is
22 mentioned in appendix BB, nor was the second
23 Betatron, both cobalt-60 and iridium-192 gamma
24 sources, nor the 250 kVp portable X-ray unit
25 that all contributed to worker dose at GSI.

1 First is the fact known since at least 1950
2 that 20 to 25 MeV Betatrons used for both
3 industrial non-destructive testing and medical
4 treatment emitted neutrons as well as photons.
5 Attached to my remarks is a neutron curve from
6 one of the three medical Allis Chalmers
7 Betatrons in the St. Louis area, and this data
8 is from 1973, a very similar unit to that used
9 -- to the two used at GSI. This is important
10 data because GSI worker badges did not record
11 neutron data and the relative biologic
12 effectiveness of neutrons is ten-fold that of
13 gamma photons.

14 Second is the fact that individual film badge
15 dosimetry data is available at Landauer for 30
16 GSI Betatron and isotope workers. The years
17 covered are 1963 to mid-1973 when the plant
18 ceased Betatron operations. I informed OCAS
19 about this dosimetry data months ago. One
20 worker had a cumulative dose for one year of
21 38,000 millirems, indicating significant over--
22 overexposure occurred at the site.

23 Many GSI workers who have recently undergone
24 dose reconstruction by NIOSH are aware of and
25 are concerned about these serious technical

1 deficiencies in appendix BB. One of those
2 workers has asked me to read into the record
3 tonight the letter he wrote to Larry Elliott as
4 a result of his exit interview. This letter
5 bears out the report that SC&A just released on
6 the same topic, the exit interview before
7 signing OCAS, that NIOSH doesn't pay enough
8 attention to worker input at this end of the
9 process.

10 [Name Redacted], gave me explicit permission to
11 state his name and disclose his NIOSH tracking
12 number, and [Name Redacted] writes as follows
13 to Larry J. Elliott. I want to read into the
14 record this statement. (Reading) I believe
15 that it has been preordained that my claim is
16 to be denied, based on these facts. One, my
17 Social Security record of employment for the
18 years 1951 through 1961 was changed. I worked
19 at General Steel Industries, which my Social
20 Security record showed at the time of
21 retirement in 1996, and was changed to roll
22 capital CO prior to or after my claim was
23 filed.

24 Number two, the name of the site was changed
25 from General Steel Industries to Granite City

1 Steel. My claim was denied because I did not
2 work at Granite City Steel during the years
3 that uranium was being X-rayed at General
4 Steel. Congressman Jerry Costello aided in
5 getting this corrected.

6 I have -- three, I have not been given any
7 factors being considered for the dose
8 reconstruction, such as (a) my work station and
9 task performed, (b) the amount of dust in the
10 air that could be radiated (sic) by the
11 sunshine effect, or (c) the amount of residual
12 radiation in the area. And in parentheses, a
13 cleanup of the site of the old Betatron was
14 completed in 1993 because of radiation
15 contamination and the local city authorities
16 were not notified, end of parentheses.

17 Number four, General Steel Industries' own
18 railroad cars that were used throughout to
19 transport the uranium castings, and they were
20 also used throughout the plant. No one
21 measured to see if they were contaminated. I
22 don't know if that was considered.

23 Number five, NIOSH letter dated June the 27th,
24 2007, signed by April Jenkins, said that Joe
25 Dickey was to do my dose reconstruction and I

1 had to let her know if I had any reason to want
2 someone else. I called on July the 6th at
3 12:48 p.m. central time and said that I wanted
4 a hold on the dose reconstruction to have an
5 expert review the qualifications of Mr. Dickey.
6 She said, quote, okay, end quote, and I was to
7 call her when I wanted it to proceed. On July
8 the 9th, 2007 I called and talked to Nancy
9 Vander Ahe, A-h-e, and she said my case was put
10 on pending status, in quotes, but would not
11 sent me a letter to confirm. On August the
12 2nd, 2007 I received a NIOSH letter stating
13 that my case was in dose reconstruction. The
14 letter was simply dated July 2007. I called at
15 1:30 p.m CT and asked to talk to Nancy or
16 April, and was told they were not available. I
17 then asked who made the decision and was told
18 a, quote, decider, end quote. I asked who, and
19 they said a leader named Richard McCarthy. I
20 asked to talk to him and was told he would call
21 me back. He didn't call. On August the 3rd I
22 called and was told Mr. McCarthy was not in on
23 Fridays. On August the 6th Mr. McCarthy called
24 and told me my dose reconstruction would go
25 forward and I couldn't stop it.

1 Six, I am now told I'm to sign a form saying I
2 don't have any other information to submit. I
3 don't know what information they have, or how
4 they perceive that information. If I don't
5 sign the form and submit it in the allotted
6 time frame, they may, quote, administratively
7 close my dose reconstruction, end quote. This
8 sounds like a, quote, done deal, end quote, and
9 there's nothing I can do. I can tell you I
10 don't like it, and I will share this
11 information with Senators Durbin and Obama, as
12 well as Congressman Costello.
13 And his final paragraph says (reading) My work
14 station was out in 10 building among all the
15 castings and burners, the welders, the
16 chippers, the grinders, the sandblast
17 operators, the inspectors, the four foremen and
18 laborers. I was there every day and was
19 exposed to everything they were. I went to
20 check on castings at the Betatron site on many
21 occasions. During lunch breaks in good
22 weather, we would go out and sit on the company
23 rail cars to eat our lunch. No one told any of
24 us about radiation. Inside the building if
25 someone was working inside of a casting -- and

1 in parentheses, tank (unintelligible) and
2 turrets, end -- end parentheses -- it was
3 necessary, due to the noise, to lean against
4 the casting to get information from them. It
5 was normal practice to lean on the castings
6 while writing information on the cards.
7 Respectively (sic), [Name Redacted], NIOSH
8 tracking number [Identifying Information
9 Redacted].

10 Thank you very much.

11 **DR. ZIEMER:** Okay. Thank you very much, Dr.
12 McKeel.

13 Next Deb Detmers, and Deb we heard from earlier
14 and -- is she back this evening? She's with
15 the Congressman's office.

16 **DR. MCKEEL:** (Off microphone) I think they may
17 have (unintelligible).

18 **DR. ZIEMER:** Yeah. We did hear from her
19 earlier today.

20 Bev -- is it Marcoski*?

21 **MS. MARCOSKI:** Yes.

22 **DR. ZIEMER:** Yes.

23 **MS. MARCOSKI:** I'm -- I'm Bev Marcoski and I
24 just have a few comets -- comments on the SEC
25 petition with Olin Chemicals. My comments

1 revolve around four areas. One is water
2 testing at the plant, which was not done. Two
3 is part of the chlorination process for the
4 calcination process. Three, you talk about
5 specific assumptions versus the general. And
6 then four, I'd like to touch base on the
7 thorium.

8 I was doing some general reading in *Aviation*
9 *Medical* and it referenced ww.epa.gov/radon
10 (sic), and what is stated was drinking water
11 deaths are primarily due to lung cancer due to
12 the radon. And I started thinking about
13 Blockson and all the information I've read over
14 the past six years, and nothing was mentioned
15 about water testing on the site. I'm assuming
16 the men worked -- the workers in the plants and
17 the ladies in the administrative offices drank
18 the water. Also there's a possibility that
19 some of the men also showered in this water,
20 and there's no objective evidence of any water
21 testing.

22 When I was in Joliet a couple of weeks ago one
23 of the gentlemen sitting next to me said that
24 Olin did have six of their own wells.

25 Further to think through the process and in

1 your SEC petition, the most recent one from
2 July, it talks about washing down the uranium
3 area, and then what happened to that waste
4 water? And also what happened to the waste
5 that they swept up? That was something that
6 was unanswered, how that left the plant or
7 where it went. And again, I guess there's open
8 questions on how polluted was the water.
9 Secondly, chlorination is known to have a
10 carcinogenic effect as well, and I'm sure they
11 used high levels of chlorin-- chlorine to
12 increase this calcination process. I know
13 you've only looked at radionucleides (sic), but
14 I know chlorine does have a carcinogenic effect
15 as well, especially when you're inhaling the
16 fumes, and there's nothing said about that, and
17 that's page 31 of the SEC.
18 Specific versus general, and I guess I did my
19 own little analysis versus my father's job, and
20 -- and they also did one on page 41 in the SEC
21 for only one person, a filter operator. Most
22 of the assumptions made for this job analysis
23 were general, assuming that a person stood 30
24 centimeters away from the contamination. In my
25 case I assumed that my dad took some of the

1 waste away from this building and that he
2 handled it for approximately 20 minutes two
3 times a week. That millirem exposure is 160 at
4 that, and when I did the math it came down to -
5 - over a 10-year period -- 51,150 millirems of
6 exposure versus the assumed 24,000. So even in
7 his small job of taking the waste away from
8 this area where they processed the uranium,
9 specifically looking at it, his exposure was
10 twice what was assumed. And they only did this
11 for one other person, and I guess if you're
12 going to analys-- analyze the jobs, you might
13 have to look at the specific jobs each of these
14 people did, which may be very encumbersome
15 (sic) to do to get exact exposures versus
16 general.

17 And then fourthly, to talk about the thorium,
18 and I guess in the third Technical Basis
19 Document, I believe page 13, there is an
20 unknown value of what the matrix is exactly on
21 it. And I don't know how you can go back to
22 the '50s. It says in thorium-230 the matrix
23 may not dissolve, assuming that it didn't go to
24 the phosphoric acid stream, but maybe a larger
25 portion could have gone to the sulfuric acid

1 gypsum pond; and if so, how would it change the
2 technical assumptions.

3 Those are the four things that I had. Thank
4 you.

5 **DR. ZIEMER:** Okay. Thank you, Bev, and the --
6 the Blockson working group has heard your
7 remarks and can consider them further as they
8 continue -- at least many of them. Certain
9 ones, such as chlorine, actually are outside
10 the purview of this group. We recognize there
11 are many carcinogens in the workplace, and
12 we're somewhat restricted in what we can
13 address in terms of the legal framework that we
14 work in, but that's -- that's one of the issues
15 that is always a concern. But be aware of that
16 at least also.

17 Cyril -- looks like G-u-r-e, Gure? Close
18 enough for government work, as they say --
19 right?

20 **MR. GURA:** Well, my name is Cyril Gura*.
21 [Identifying Information Redacted] was [Name
22 Redacted] and he is tracking number
23 [Identifying Information Redacted], and [Name
24 Redacted] is my [Identifying Information
25 Redacted]. And had an opportunity to review

1 SEC 00058, and I believe it's more favorable
2 and more in line with the intent of federal
3 litigation, but reviewing it I did see some
4 things that I didn't see answered.

5 In one particular case, personal protective
6 equipment, looked -- personal protective
7 equipment was issued to employees as comparison
8 to what personal protective equipment employees
9 would have to wear now when handling -- working
10 around these noted hazardous materials
11 identified at Blockson's.

12 And then secondly, on page 27 of 50, talk about
13 urinalysis. It was sampled from April 1954 to
14 February 1958. The petition class definition
15 was from January 1st, 1951 to December 31st,
16 1962. The sampling occurred over three years
17 and ten months. However, if there was any
18 records, there was no sampling indicated for
19 seven years and one month. What would DOL do
20 if their inspectors went out on site to review
21 compliance records and a seven year one month
22 period were missing now? Is this one of many
23 latent conditions that is indicative of poor
24 safety oversight, or is this something more
25 blatant like hiding something or keeping unsafe

1 working conditions unknown?

2 And lastly, I understand in order to calculate
3 exposure certain assumptions need to be made,
4 and some of these newer assumptions like
5 increasing the radon level from 50 percent to
6 95 percent does help. And including other
7 cancers -- lung, liver, kidney -- also helps.
8 And some of the other exposures from thorillium
9 (sic) and uranium are important. But it should
10 be remembered that employees' health
11 disabilities, like this woman over here, just -
12 - dif-- different types of cancers, fatalities
13 and also -- should be a heavily-weighted factor,
14 even more so than calculations based on general
15 assumptions, even though that these assumptions
16 are the best that could be ascertained at the
17 time.

18 That's all I have.

19 **DR. ZIEMER:** Okay. Thank you very much.

20 I think we have on the phone Terrie Barrie from
21 Colorado. Is Terrie Barrie on the line?

22 Terrie Barrie is on the line. Terrie, you may
23 give us your comments, please.

24 **MS. BARRIE:** Well, good evening, Dr. Ziemer and
25 members of the Board. My name is Terrie Barrie

1 and I'm with the Alliance of Nuclear Worker
2 Advocacy Groups. I'd like to thank you and Dr.
3 Wade for allowing me to call in my comments
4 tonight.

5 I want to address the draft report that SC&A
6 submitted on the closeout interviews. Their
7 summary is very similar to what I hear from
8 individual claimants. Claimants are asked
9 during the initial interview to supply names,
10 for example, of coworkers that could help
11 verify an exposure or workplace condition. In
12 the claims I have tried to help I have yet to
13 hear of NIOSH contacting those workers -- those
14 coworkers. It appears to the claimants that
15 the initial interviews, as well as the closeout
16 interviews, are for show only. The claimants
17 do not feel that NIOSH ever intended to
18 investigate and find the whole truth of how
19 much radiation the workers were exposed to.
20 [Name Redacted], an advocate for some Los
21 Alamos claimants, contacted me this morning.
22 She requested and I agreed that the Board
23 should instruct SC&A to review a much larger
24 sampling of randomly-chosen claims
25 (unintelligible) exit interviews from each DOE

1 facility from across the country. This'll give
2 the Board a more accurate assessment of the
3 problem with the closeout interviews.
4 If the sampling results in a systemic problem,
5 then each and every denied claim needs to be
6 reopened to ensure that all evidence was
7 considered in reconstructing doses. I shudder
8 to think of the cost, but reopening claims will
9 preserve the due process rights of the
10 claimants. However, if this dose re-- if this
11 does come to pass, I strongly recommend that
12 the ORAU team not be permitted to perform the
13 new dose reconstructions. They should not
14 receive financial compensation when it was
15 their failure to produce adequate procedures
16 for dose reconstructions.
17 There is one other issue I'd like to raise
18 tonight. SC&A had concerns on NIOSH/ORAU's
19 ability to apply their new procedures
20 correctly. I had one Rocky Flats claimant
21 contact me last week -- last week with a
22 disturbing story. Her husband had died of
23 lymphoma years ago. When the new procedure,
24 target organs for lymphoma, was issued she
25 petitioned and was granted a reopening of her

1 claim by DOL. DOL sent her claim back to NIOSH
2 for another dose reconstruction. However, the
3 new dose reconstruction applied the super S
4 model instead of the lymphoma target organ
5 procedure.

6 Some of -- Board members may not realize that
7 she cannot appeal to DOL that NIOSH used the
8 wrong procedure to reconstruct dose. During
9 the appeals process DOL will not consider the
10 claimant's objections to NIOSH's procedures or
11 calculations.

12 The claimants have heard nothing but how
13 claimant friendly this program is. Ignoring
14 evidence is not claimant friendly. The
15 inability to question NIOSH's procedures during
16 a DOL hearing is not claimant friendly. I
17 strongly recommend that the Board do everything
18 in its power to rectify these injustices.

19 Thank you again for allowing me to speak
20 tonight.

21 **DR. ZIEMER:** Okay. Thank you very much,
22 Terrie.

23 Let me ask if there are any other individuals
24 on the line that did wish to address the
25 assembly?

1 Yes, we'll take -- please tell us who you are
2 and then you can proceed.

3 **MS. BALDRIDGE:** Okay. This is Sandra
4 Baldrige.

5 **DR. ZIEMER:** Okay, very good. Proceed.

6 **UNIDENTIFIED:** (Off microphone)
7 (Unintelligible)

8 **MS. BALDRIDGE:** I was listening to the
9 discussions earlier today, and the issue came
10 up in discussion about worker statements being
11 taken and used as evidence, and concerns about
12 whether -- you know, what were -- what
13 statements would be listened to, how they would
14 be considered and so forth. And I recalled
15 reading in the rules and regulations on 42 CFR
16 82, and this is the statement as it appears in
17 the rules and regulations. It says it is well
18 recognized from health, behavioral and social
19 research that there are substantial limitations
20 and variations in the ability of people to
21 accurately call -- recall past events and that
22 these limitations generally increase with the
23 time elapsed since the past event. However,
24 all other sources of information available to
25 NIOSH in conducting dose reconstructions

1 potentially involve substantial limitations.
2 To conduct dose reconstructions NIOSH will
3 apply procedures available to it to mitigate
4 these limitations to the extent possible to
5 improve the recall of employees.

6 Now the statement, as I read it, shows that it
7 is written into the rules and regulations a
8 prejudice against statements and testimony
9 taken from workers. I don't know how anyone
10 else sees it.

11 Another issue I would like to address is the
12 timeliness. In filing the petition for
13 Fernald, much of the basis of that was the
14 discovery that there had been thorium
15 processing in plant six where my father worked
16 for three and a half years. That had been
17 omitted from the site profile and actually was
18 without -- had been conducted without NIOSH's
19 knowledge. They claimed that records had been
20 destroyed.

21 And again in the rules and regulations, after
22 having presented this information in
23 [Identifying Information Redacted] case and
24 claim, I got no -- nowhere with it on his
25 personal case. It says HHS has added

1 provisions under 82.27 of this rule to
2 authorize NIOSH to review com-- to review
3 completed dose reconstructions on its own
4 initiative upon obtaining new information or
5 changing scientific elements underlying dose
6 reconstructions. HHS has targeted the added
7 provision to circumstances in which new -- the
8 use of new information or scientific element
9 could increase the levels of radiation doses
10 previously estimated since the purpose of these
11 provisions is to provide new information to DOL
12 on claims that were denied based on outdated
13 information.

14 When I have contacted NIOSH about this they
15 have chosen to make their prerequisite the
16 revision of the site profile. Now they said
17 today that they didn't know when their site
18 profile for Fernald would be revised. So they
19 have chosen to increase the time for the
20 consideration of [Identifying Information
21 Redacted] claim based on the new information
22 that they have -- that they received in the
23 spring of 2006. And to this point [Identifying
24 Information Redacted] case is closed and none
25 of the information that has been presented has

1 ever been considered.

2 My third point, at the Fernald working group
3 meeting, Dr. Ziemer, you indicated that OTIB-2
4 was being looked at for its appropriate use,
5 but you didn't elaborate on that. My con-- my
6 continuing concern is that its application to
7 dose reconstructions for workers who don't meet
8 the criteria for its application, specifically
9 an initial hire date after 1969 as stated in
10 the document, and a start date prior to 1970.
11 I was wondering if you could give me a little
12 more information about what is being done to
13 look into the use of inappropriate technical
14 basis information bulletins.

15 **DR. ZIEMER:** Okay. Thank you, Sandra. I -- I
16 think what I will need to do is get back to you
17 separately on that particular thing. I need to
18 talk with -- with Mr. Clawson, the head of the
19 workgroup, and then get some clarity on how
20 that relates in this particular case.

21 But let's see, do -- do we -- well, we'll do
22 this off line. I think we -- we may have your
23 phone number in the records already, but if
24 not, we'll -- we'll track that down and try to
25 get you a more specific answer. I -- I don't

1 know the answer to that as I sit here right at
2 the moment.

3 **MS. BALDRIDGE:** You know, in [Identifying
4 Information Redacted] case, he was an employee
5 at National of Ohio in 1971 -- actually in
6 1951, not 1971. So you know, I would like to
7 know how it applies and --

8 **DR. ZIEMER:** Yeah, and as I said --

9 **MS. BALDRIDGE:** -- so forth.

10 **DR. ZIEMER:** -- I don't know on that specific
11 case, but --

12 **MS. BALDRIDGE:** I'll be expecting a response.

13 **DR. ZIEMER:** -- in general -- right, and in
14 general if -- if the Board identi--

15 **MS. BALDRIDGE:** Do you have any questions for
16 me?

17 **DR. ZIEMER:** Right. Thank you. In general, if
18 -- if the Board identifies what we think is
19 inappropriate use of -- of any of the
20 documents, that's raised and we -- we try to
21 learn what NIOSH's perspective is on it and --
22 and we also have our contractor look at these
23 and then we try to reach some kind of
24 resolution. But on specific cases, I think our
25 preference is not to try to resolve those in

1 the public forum since there are often privacy
2 issues involved. But we will get back to you
3 and try to be more specific in answering this
4 question for you.

5 **MS. BALDRIDGE:** I was just -- you know, hadn't
6 really understood what was going on and, you
7 know, thought I would take this opportunity to
8 ask.

9 **DR. ZIEMER:** Fine. We'll -- we'll follow up
10 with you, Sandra, on this. Thank you.
11 Is there anyone else on the line that wishes to
12 address the group tonight?

13 (Pause)

14 We have another person on line? Yes, we do.
15 Please have them proceed, identify themselves
16 (sic).

17 **MR. DUTKO:** (Unintelligible) G. Dutko. I'm
18 from Granite City, Illinois. I was a Betatron
19 operator at GSI between 1963 and 1966. Sir, my
20 question is -- and it's not malicious or
21 aggravating -- any intent whatsoever. But sir,
22 50 years ago we weren't exactly told the truth
23 of the hazards of the Betatrons. I was one of
24 the fellas that turned the key on and simply I
25 don't know the damage or sickness caused by

1 holding back the -- the truth about these
2 machines, but I don't understand -- going back
3 to Robert Stephan's and Dr. McKeel's statements
4 -- why aren't the statements of the working --
5 working people -- carry any weight with the
6 Board or with NIOSH or DOE? Sir, we fired
7 thousands and thousands of Roentgens back in
8 that time. We fired thousands of Roentgens,
9 sir. And I don't know of any firing sheet
10 possessed by NIOSH of these logs of radiation
11 or Roentgens. I -- I -- they might have film
12 badges. We never did trust a film badge. We
13 wore dosimeters quite a bit. They burned the
14 dosimeter logs. We never saw them. We never
15 saw reports on -- on any kind of blood tests or
16 urine tests. How, sir, can accurate -- how can
17 accurate dose recon-- dose reconstructions be
18 done in this case? And my -- my remarks are
19 not intended to be malicious.

20 **DR. ZIEMER:** Okay. Okay, thank you for that
21 question. I might tell you that in fact both
22 NIOSH and our contractors are looking at the
23 Betatron issue to determine the extent to which
24 the doses can be re-- reconstructed. I don't
25 think we know the answer to that yet. It's

1 possible that they may say they can't be. It's
2 possible that they may determine that they can
3 -- can reconstruct. So certainly we've taken
4 seriously the -- the issues as raised by John
5 Ramspott and -- and by Dan McKeel. We are
6 looking seriously at the Betatrons and we hope
7 to come up with a -- an answer to the very
8 question that you have asked.

9 **MR. DUTKO:** One thing I -- I do know and the
10 only thing I got out of that 50-year-old
11 experience is a lot of us people that turned
12 the keys on the machines don't know really what
13 kind of life expectancy we're going to have,
14 sir, after finding out 50 years later what we
15 didn't want to hear.

16 **DR. ZIEMER:** Yeah, thank you, and I have to
17 take that as a rhetorical question. I don't
18 think any of us know that.
19 Our court reporter does need to get your name,
20 we missed that, if you could repeat it, please.

21 **MR. DUTKO:** My name is John G. Dutko, D- as in
22 dog u-t-k-o. I was a Betatron operator, 24 and
23 25-million-volt Betatron operator at GSI
24 between November '63 and November '66. Thank
25 you, sir.

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

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of Oct. 4, 2007; 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 7th day of November, 2007.

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