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MEETING ON THE
ENERGY EMPLOYEES OCCUPATIONAL
ILLNESS COMPENSATION PROGRAM

MAY 11, 2002 3:00 P.M.
ESPANOLA, NEW MEXICO

REPORTED BY: Justine Hananweeke
PAUL BACA PROFESSIONAL COURT REPORTERS
500 Fourth Street Northwest, Suite 105
Albuquerque, New Mexico

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1 Officials Present
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3 Senator Jeff Bingaman

4 Congressman Tom Udall
5 Beverly Cook Assistant Department of Energy Secretary
6
7 Larry Elliot,
8 National Institute of Occupational Safety and Health
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10 Peter M. Turcic,
11 Department of Energy
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13
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15 P-R-E-S-E-N-T-A-T-I-O-N
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17 MR. YOUNG: Good afternoon. My name is
18 Scott Young, and I work for Senator Jeff Bingaman, and
19 welcome to our Energy Employees Occupational Illness
20 Compensation Program meeting.

21 FROM THE FLOOR: We can't hear.

22 MR. YOUNG: You can't hear?

23 FROM THE FLOOR: No.

24 MR. YOUNG: That's the first time
25 anybody's ever said that about me.

3

1 Let me just introduce who we have today. More? You
2 can hear that? Good, they can hear that. We have
3 Senator Jeff Bingaman, Representative Tom Udall,
4 Assistant Secretary Beverly Cook from the Department of
5 Energy. We have Peter Turcic from the Department of
6 Labor, Larry Elliot from the National Institute of
7 Occupational Safety and Health. We'd also like to
8 recognize a few other folks, the Los Alamos P.O.W.S.

9 Group. Ken Silver has put that together. We have David
10 Michaels, who is in the wings, who helped us with this
11 program initially. And most importantly, I'd like to
12 recognize you, the workers, who this is all about.
13 Thank you for coming.

14 Today we're going to have some opening remarks by
15 Senator Bingaman and Representative Udall, and then
16 we're going to have an update on the program by
17 Secretary Cook and Mr. Turcic and from Mr. Elliot, and
18 then we're going to hear from you about some different
19 -- some problems you've had with the program today, and
20 then we'll open it up for questions and answers. I'll
21 be kind of keeping the clock here, to keep things moving
22 along. And with that, I think I'll just get us going.
23 Senator Bingaman.

24 (Applause).

25 SENATOR BINGAMAN: Thank you very much.

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1 Many of you were at the meeting that we held -- that was
2 held, I guess a couple of years ago over at Northern,
3 right up the road here, when the Department of Energy
4 was trying to determine what should be done by way of
5 compensation an occupational illness compensation
6 program. That was one of many hearings they had around
7 the country. It was a very good hearing.

8 And as a result of that, as you recall, we went back
9 to Washington and introduced legislation to set up this
10 program, this Energy Employees Occupational Illness
11 Compensation Program, and we passed it. Congressman
12 Udall in the House worked on it, I worked on it in the
13 Senate. We had, of course, Bill Richardson in the

14 Secretary's office at that point, Secretary of Energy's
15 Office, and he worked very hard to lobby various members
16 of the Congress to get that enacted as well. And we
17 were successful about 19 months ago in enacting that
18 legislation.

19 The program set out a framework that initiated
20 payments to workers who had been made ill as a result of
21 their work at Department of Energy facilities. The
22 program has two parts: A federal compensation program;
23 and secondly, an assistance program to help workers file
24 state workers' compensation claims.

25 For the past several months, we've heard more and

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1 more complaints about the implementation of the program
2 and problems that workers have encountered in trying to
3 receive the remedy that they believe they're entitled
4 to. The concerns vary, but the result has been very
5 unfortunate in that we have, as I understand it, only
6 two New Mexico workers who have actually received
7 monetary compensation through this program so far. This
8 is out of about 500 filed claims. We thought it would
9 be useful -- this is not a formal hearing, but this is
10 an opportunity to primarily for the officials who are
11 now tasked with trying to implement this program to hear
12 from workers as to what the situation is and what the
13 problems are that they have encountered.

14 Assistant Secretary Beverly Cook, who was just
15 confirmed as the Department of Energy's Environment
16 Safety and Health Assistant Secretary, she's here today
17 to gather specific information regarding these problems,
18 since this is obviously a significant part of her new

19 job. Larry Turcic from the Department of Labor is here,
20 Larry Elliot from the National Institute of Occupational
21 Health. These three represent the primary agencies
22 involved with implementation of the program. They're
23 individuals -- and they have the job of making this
24 work.

25 Obviously, I have the additional interest of finding

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1 out, and I'm sure Congressman Udall does as well,
2 defects in the law that we need to try to address
3 legislatively. So we want to hear from workers. That's
4 the primary purpose of it. We have a list, quite an
5 extensive list, of people who have been designated to
6 speak both on toxic substances, on radiation dosimetry,
7 and on the EE0IC claims process. So I'll stop with
8 that.

9 I think the main purpose is to get the information
10 out and get it to the right people. I thank them very
11 much for coming to Espanola today. This will be a big
12 help. Let's give them a hand for coming out here.

13 (Applause.)

14 Let me turn this over to Congressman Udall, who has
15 been a strong ally in all of this in the U. S. Congress,
16 and let me turn it over to him to make comments.

17 CONGRESSMAN UDALL: Jeff, thank you very
18 much. And let me say that I agree with Jeff. What we
19 really want to do is get to the point here of this
20 meeting, which is hearing from workers.

21 I remember when I came here two years ago, you told
22 me that the old system of hanging workers out to dry had
23 to change. And at that meeting, I said I would work

24 with you to end decades of denial and get some real
25 compensation for Cold War heroes who became sick after

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1 serving their country. Today we have a law on the books
2 that calls for fair treatment and just compensation for
3 Cold War heroes. I'm proud to have worked with Senator
4 Bingaman to pass this piece of legislation. He was a
5 champion in the Senate and I worked very hard in the
6 House with a bipartisan coalition. Unfortunately,
7 several problems have emerged in the implementation of
8 this bill.

9 First, the Energy Employees Compensation Bill which
10 I supported was supposed to help workers by ensuring
11 that DOE contractors would not contest legitimate claims
12 for compensation. Unfortunately, DOE has proposed a
13 rule that allows contractors to use their tremendous
14 resources to fight claims. In some claim cases, DOE
15 will even use taxpayer money to reimburse contractors
16 who have thwarted the spirit of law by fighting workers'
17 claims.

18 Second, Subtitle D of this legislation was supposed
19 to overcome barriers in state workers' compensation
20 programs that prevent workers from getting the
21 compensation they deserve. As such, the bill called for
22 claims under Subtitle D to be evaluated using a uniform
23 medical standard based on sound science. Instead, DOE
24 has decided to use a different standard for each state
25 affected by this bill. According to DOE rules, the DOE

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1 physician panel will have to learn dozens of state
2 worker's compensation statutes, and workers will face
3 the same barriers they faced under the old workers'
4 compensation system.

5 In New Mexico, that means claims will be evaluated
6 based on an outdated, scientifically unsound standard
7 that will effectively prevent whole groups of legitimate
8 claims from receiving compensation.

9 Finally, HHS, the Health and Human Services
10 Department, has failed to release the rule relating to
11 the expansion of the special exposure cohort. As you
12 know, members of this special cohort have an easier
13 burden of proof because they, through no fault of their
14 own, are unable to provide the documentation that would
15 prove their claims. I cannot speak of what is in the
16 special cohort rule because it is my hope that DOE has
17 laid out a policy that gives workers who had the wool
18 pull over their eyes a fair chance to receive
19 compensation.

20 With these concerns in mind, I've written to the
21 Department of Energy urging them to follow the intent of
22 the law as they implement this program. I look forward
23 to working with Senator Bingaman and everybody involved
24 in implementing the Energy Employee Compensation
25 Program. I believe that working together, we can make

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1 this program a real success. We are not going to give
2 up the fight to bring fairness and justice to this long
3 overdue law and these Cold War heroes. Thank you.

4 (Applause.)

5 MR. YOUNG: Thank you. Now we're going to
6 hear from, in order, Peter Turcic from the Department of
7 Labor, Assistant Secretary Cook, and Larry Elliot.
8 Peter, I'm going to let you start.

9 MR. TURCIC: Thank you. It's a pleasure
10 to be here. I want to start out by saying that the
11 Department of Labor is committed to doing everything
12 they can to make the Department of Labor program work
13 efficiently and be a fair and effective program as we
14 administer the program. I'm also looking forward to
15 hearing from, you know, the concerns and issues that the
16 workers have. So I just want to briefly give you a
17 short update on the Department of Labor portion of the
18 Energy Employees Occupational Illness Compensation
19 Program.

20 UNIDENTIFIED MALE: I don't think your
21 cord is plugged in, you know, to the mike is plugged in
22 on this side of the table.

23 MR. TURCIC: Sorry for the delay. Just
24 briefly, the Department of Labor portion of the program
25 covers that it provides for compensation for persons who

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1 have become ill as a result of work at DOE facilities.
2 And it was enacted to provide efficient, uniform, and
3 adequate compensation for those individuals. The
4 benefits available are payment of covered medical costs,
5 lump sum of \$150,000, and supplemental benefits for
6 individuals who received compensation under the
7 Radiation Exposure Compensation Act.

8 The conditions that are covered by the portion of
9 the program administered by DOL are radiation cancers;

10 chronic beryllium disease, beryllium sensitivity;
11 silicosis; and illnesses that are accepted under RECA.

12 The highlights of the program: The law was enacted
13 in October 2000, became effective July 31st, and
14 Secretary Chao issued the first payment under the
15 program on August the 9th, 2001. And then amendments
16 were enacted in December that modified, among other
17 things, the survivor benefits.

18 In setting up and administering this program, DOL
19 had established four district offices, a national
20 office, and a final adjudication branch. And this shows
21 the jurisdictions. And as you can see, the jurisdiction
22 of Los Alamos and of New Mexico is handled and claims
23 are adjudicated out of our Denver district office.

24 The participants in the program that DOL has to work
25 with in adjudicating these claims -- this shows the

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1 corporate entities, DOE, NIOSH, the Department of
2 Justice, in some cases the Social Security
3 Administration, and medical providers. The status of
4 the program to date and these numbers are effective as
5 of May the 2nd.

6 As of May 2nd, we had received over 27,000 claims.
7 Of those, over 17,000 are claims for cancer, 900 for
8 beryllium sensitivity, a little bit more than 900 on
9 chronic beryllium disease, 536 silicosis claims, 3,237
10 RECA claims, and other, over 4,000.

11 With the adjudication of those claims, to date, we
12 have processed and issued final decisions in over 3,000
13 case to approve benefits and 618 cases to deny
14 benefits. We've issued recommended decisions in over

15 3,400 cases to approve benefits and over 2,100 to deny
16 benefits. The claims awaiting employment verification
17 are 6,242, and over 4,000 claims have now been sent to
18 NIOSH for the determination of dose reconstruction. And
19 to date, we've made 2,479 payments in 2,162 individual
20 cases, and the amount of compensation paid to date has
21 been \$190 million.

22 This shows the claims' status. And as you can see,
23 we have approximately 4,000 claims that are undergoing
24 dose reconstruction, 5,500 that have recommended
25 decisions, 6,200 that we're awaiting employment

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1 verification, and 11,000 what we call outstanding.
2 That's the claims that we are working on to either
3 develop medical or other factual information in
4 adjudicating the claim. This shows the split for final
5 decisions, with 17 percent of the final decisions to
6 date being denials.

7 So New Mexico specific data to date: 684 total
8 claims received, 50 referral to NIOSH, 31 recommended
9 decisions, 10 final decisions, and four cases have been
10 paid. Now this data does not include the RECA claims
11 from New Mexico. There have been numerous RECA claims
12 that have been processed and completed in New Mexico.

13 Breakdown of the medical conditions that individuals
14 are claiming from New Mexico: 315 have claimed cancer,
15 42 beryllium sensitivity, 14 chronic beryllium disease,
16 four chronic silicosis. 138 have claimed other lung
17 conditions which we would adjudicate to see if it was a
18 lung condition that is covered under the DOL portion,
19 which would be a radiation cancer or a silicosis or

1 awaiting employment verification, and 105 are in the
2 outstanding category.

13 (Applause.)

18 I need the Senator to pay attention because I have
19 to thank him for something. First, I would like to
20 thank Senator Bingaman and Congressman Udall for
21 inviting me here today because I very much wanted to
22 come and talk to you all. But I also want to take this
23 opportunity to publicly thank the Senator for the
24 opportunity that he's given me to have this job as

25 Assistant Secretary. This is a great honor for me, and

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1 as I tell you a little bit about what my history is,
2 it's also something that was very, very important to me
3 in my career and the things I want to do with my life.
4 So I want to thank you publicly for that opportunity.

5 This is not my first visit to the DOL facilities in
6 New Mexico. I have worked in facilities here in Los
7 Alamos and at Sandia many times in the last 27 years. I
8 began my association with the Department of Energy in
9 1975 as a contractor at Idaho National Engineering and
10 Environmental Laboratory. I'm a metallurgical
11 engineer. I've worked in hot cells, I've worked in
12 reactors, I've worked in materials science
13 laboratories. I've worked in a lot of hazardous
14 facilities. I learned how to look out for myself. I
15 was told I had an obligation to look after my co-workers
16 also. I became a federal employee in 1990 first with
17 the Defense Nuclear Facility Safety Board and then with
18 the Department of Energy.

19 So you see, when they talk about finding workers'
20 records and when we talk about DOE workers, I'm one of
21 those. I've been in so many places if they start looking
22 for my records, it's going to be difficult. My husband
23 has joined us here today, too. He's worked in the DOE
24 complex for 30 years. And since 1997, he's spent about
25 half-time here at Los Alamos, working in your

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1 facilities. So the safety of your facilities is very
2 important to me, and the health of our work force is
3 very important for me. They're personal to me. These
4 are my colleagues, these are my friends, and some of you
5 here I recognize.

6 I believe that this legislation was very important
7 in starting to address the health issues associated with
8 past practices within the DOE complex, and that I, and
9 the Department of Energy, under the leadership of
10 Secretary Spencer Abraham, are fully committed to
11 implementing DOE's responsibilities under this program
12 fairly, responsibly, and in accordance with the law that
13 was passed by Congress.

14 I say this is a start because this is a very
15 complicated legislation, and as we go to implement it,
16 we're going to find things we want to do better. And
17 that is one of my commitments to you right now up front,
18 and I'll say it again at the end, and that is, I will
19 make sure that you understand from my perspective which
20 things I think are within my control and which things I
21 think that we may need changes in the legislation so I
22 can do some things to make this work better.

23 This is -- I want to say right now, too, this is a
24 three-agency effort in the sense that it's going to
25 require close interaction, communication, and

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1 cooperation on the part of all of the three agencies
2 that are represented here today. No single portion of
3 this program can be successful without the full and
4 complete cooperation of each of these agencies. We talk
5 on a regular basis. We talk almost daily to our staff.

6 I talk with senior-level managers in all of these
7 agencies to make sure that we're identifying where our
8 coordination is working and in fact where it's not
9 working. And we're trying to improve that and find new
10 ways to do better.

11 But from my perspective, DOE has an additional
12 role. These are our workers. These are my workers.
13 They've been my workers for a lot of years, and you are
14 my colleagues. So it's important to me that the whole
15 program work well. It's important to me that what DOL
16 is doing works well. It's important to me how NIOSH
17 does dose reconstructions because these are my friends.

18 My husband is leaving tomorrow to go up to Idaho.
19 One of the things he'll do this week is to say goodbye
20 to one of our friends who has cancer, probably related
21 to his work at DOE. And I said goodbye to him about a
22 month ago. It's not hard for me -- okay.

23 Let's talk about DOE's role specifically. First,
24 for the program that DOL implements, our role is to
25 provide those records of employment to DOL and also the

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1 records to NIOSH on the information to enable them to do
2 dose reconstruction for those workers with
3 radiation-induced cancers. We are moving forward to
4 provide that information as quickly as possible and as
5 efficiently as possible, but it's difficult. DOE does
6 not own those records. As you know, the contractors own
7 those records. But we have found, especially in the
8 last few weeks, additional databases that are out there
9 in the complex that we can tap into to find the
10 secondary forms of information that prove employment. I

11 think that we're going to get this very well
12 streamlined.

13 I talked to the DOE managers, the field managers who
14 run the DOE sites around the entire complex, on Thursday
15 in Albuquerque. I had them all in a room and talked to
16 them about this program and asked them to also let me
17 know if they know of any other databases that we can tap
18 into so that we can directly provide DOL information on
19 employment as quickly as possible from whatever source
20 we can get that information. But I hope that you all
21 realize if you apply for the program, we look and can't
22 find records, they come back and ask you for records,
23 that doesn't mean that you have been denied. That just
24 means that we're still searching. At the end of the
25 day, a written affidavit will also work. There are a

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1 lot of ways to prove employment, and we're going through
2 every possible way that we can to do it as quickly as
3 possible, but written affidavits will also be accepted.

4 We've noticed that there's a lengthy search time.
5 For instance, at Los Alamos, a lot of data was on
6 microfiche. The office here has purchased some new
7 equipment. In April -- they told me yesterday, and I
8 met with the folks here yesterday -- in April of this
9 year, the search time for these employment records that
10 are 40 years old, in some cases, is down to about a
11 28-day average. I think that's a great improvement, but
12 we'll keep requesting.

13 There is a bit of disconnect in our data in the
14 sense that as of the information I received yesterday,
15 so it's an update from what you just saw, the offices

16 here have received 492 requests for employment
17 verification, and 405 of those have been submitted back
18 to DOL. So they're moving forward, and I hope that that
19 gets better.

20 The other thing I wanted to say about your local
21 programs here and our ability to communicate with you is
22 that I wanted to announce today that we have a new
23 office, a resource office, a resource center. There's
24 the one here in Espanola, but there's also an office in
25 White Rock behind Metzger's Texaco station in White

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1 Rock. You all know where that is, and it is open as of
2 this week. They opened up yesterday, so we have now
3 another facility in White Rock that will be available to
4 you.

5 Our other rule in DOE is outreach and assistance,
6 and this is where I will also ask for help from all of
7 you. I've been to three of the different resource
8 offices to date, and I look at their information, I look
9 at how they're providing outreach information to the
10 communities, especially to our retired workers, and I've
11 collected a lot of information. But if you think there
12 is a still part of our work force, our former work force
13 and our current work force, that has not been reached,
14 please tell me. Tell the resource centers or send me an
15 e-mail at DOE headquarters. Whatever it takes, but call
16 our office -- the numbers are on the brochures -- to let
17 me know how we might better reach our work force and our
18 former work force so we can tell people more about the
19 program and how they can get involved.

20 The purpose of the resource centers is to assist

21 workers in filing their claims and to provide
22 information to the former and current workers on all
23 aspects of the program, and I do check. I check on a
24 regular basis to see if that's effective, but you have
25 to provide me with that feedback.

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1 I want to stop right now to tell one other thing
2 that I asked about yesterday and I've told the work
3 force at Los Alamos that I would check on, and that is,
4 I understand that there is a concern of current workers,
5 as there is at all of the sites that I been to, about
6 retaliation. That's something that's very much of a
7 concern to me. Our current work force is very important
8 to me. Our resources in the Department of Energy still
9 are doing very, very important work, and I expect them
10 to continue to do that. And I don't want to think that
11 I'm in any way, limited in using those resources. That
12 is something I watch very closely. So I just want you
13 to know that you have a commitment from me that if I see
14 any indication of that -- and again, you may have to let
15 me know about that -- I will take quick action to make
16 sure that that doesn't happen.

17 Okay. On to the second part. I want to adjust this
18 Subtitle D to the legislation. This part is directed at
19 DOE helping workers to file for state workers' comp in
20 the state in which they work. It identified the need
21 for an independent medical evaluation to determine
22 whether your illness came from work at DOE, and it
23 directed that if the finding was positive, that DOE
24 would work with you to have your claims paid by the
25 contractors. I am pleased to announce today that DOE's

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1 final rule was transmitted to the Office of Management
2 and Budget yesterday, on Friday, so they could do the
3 inter-agency reviews so that we can get that rule out
4 and on the street. It's been a long time coming. I
5 understand that.

6 One of the reasons it was so long in coming is
7 because your comments were extensive, and we took them
8 all very, very seriously. We received comments from
9 many advocates, including your elected officials, but
10 all of you also. We made many changes in the draft rule
11 that was out. I don't have a copy of that rule with me
12 today because, in fact, it has to go to inter-agency
13 review. I expect that to be very timely. But what I can
14 tell you is some of significant changes that we put in
15 there are things like DOE does not intentionally
16 reimburse any contractor contesting these claims or
17 awards, and that workers are not required to offer the
18 evidence of causation, only the medical diagnosis of
19 that illness. And then DOE will assist in getting the
20 information so that we can make sure that medical panels
21 have the correct information to decide that. And it
22 provides very easy access for workers to the Physicians
23 Panel. So we will get that out soon. As I said, I
24 expect a review very, very soon. I'm almost done.

25 Where we go next with that, though, is the state --

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1 we have to make arrangements with the state workers'

2 comp programs. Those have already been drafted. Kay
3 Kemper was here, and she's already talking to a lot of
4 the states. She talked to New Mexico yesterday, is
5 going to Colorado next. We've got her on the road to
6 get those things in place.

7 The panel members, we already have the names of the
8 people who have been suggested for those panels. We'll
9 put those panels in place right away. We've done the
10 preparatory case work for over 11,000 workers now, so we
11 can get to work immediately on those cases as soon as we
12 have those agreements and final rule in hand.

13 I know it's been frustrating to you. It was
14 frustrating to me when I was in Idaho as a field
15 manager, responsible for the workers there. Now that
16 I'm in this job, hopefully I can make this move quicker
17 and we can move on with this. I appreciate, by the way,
18 all of you taking your time out today to come here
19 because it's a beautiful Saturday in New Mexico and I
20 know this cuts into your time here. It's a beautiful
21 place to be. But I am very interested in continually
22 improving our ability to make this program work, so your
23 feedback is very important and the issues that you'll
24 discuss today are very important to me so I know what we
25 can do to focus that improvement and make this work

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1 better. Thank you for your time.

2 (Applause.)

3 MR. ELLIOT: Good afternoon. My name is
4 Larry Elliot. I'm the Director of the Office of
5 Compensation Analysis and Support at the National
6 Institute for Occupational Safety and Health. I'd like

7 to thank Senator Bingaman and Congressman Udall for
8 inviting me here. I always enjoy coming to your
9 beautiful state, and it's certainly a pleasure for me to
10 be here today. I'll keep my remarks brief so that we
11 can listen to you and you won't have to be burdened with
12 listening to us.

13 I'd like to describe for you the roles which HHS has
14 under this compensation program. We believe that it was
15 the intent of Congress in passing this legislation to
16 bring HHS and NIOSH to the fore and use science to the
17 fullest advantage possible in adjudicating claims,
18 cancer-related claims. In that regard, HHSS is tasked
19 with establishing methods for estimating workers'
20 exposure to radiation in regard to claims that are
21 referred to HHS by the Department of Labor. These
22 claims come to us with a referral from DOL for dose
23 reconstruction. HHS is also required to conduct such
24 dose reconstruction for claimants to provide the
25 individual doses to DOL so the Department of Labor can

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1 determine whether it's more likely than not that their
2 cancer was caused by the radiation dose.

3 For claimants applying under this program to DOL for
4 their cancer-related claims, it is the Department of
5 Labor's responsibility to make that determination using
6 the rule that we were tasked with providing, that being
7 the probability of causation, which is based upon cancer
8 risk models, statistical analyses of those risk models.
9 And in each and every regard, where possible, our rule
10 speaks to being claimant-friendly. We take a
11 claimant-friendly approach, and if we're going to err,

12 we err on behalf of the claimant.

13 The Act also directs HHS to develop and apply the
14 procedures that we established for considering petitions
15 by classes of employees to be added to the special
16 exposure cohort that Congressman Udall mentioned
17 earlier. I, too, am disappointed that we have not had
18 these available to you. They are in Department
19 clearance, and I expect that they will be available for
20 public comment very soon.

21 The Act also directs HHS to provide staff support to
22 an independent Persidentially appointed advisory board.
23 I'm pleased that you have two representatives on that
24 board from the State of New Mexico, one of which I know
25 is here today, Rich Espinosa. I don't know if Dr. Tony

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1 Andrati is here, but he is the other individual that was
2 appointed to the board.

3 This advisory board is chartered to provide HHS
4 advice and recommendations regarding our
5 responsibilities under this Act. The Act also directs
6 HHS to appoint members to the Department of Energy
7 Administrative Medical Physician Panels. And as you
8 heard Beverly Cook just mention, we made those
9 appointments. We have appointed 30 qualified
10 individuals, and we stand at the ready to provide
11 additional individuals as they are needed.

12 Let me tell you about the status of where we're at
13 with these different responsibilities. On April 30,
14 this past month, HHS issued its final rules on dose
15 reconstruction methodology and on probability of
16 causation. The final rules incorporate comments from

17 the public, from scientific experts, and from the
18 independent Advisory Board on Radiation and Worker
19 Health. The publication of the final rules allow the
20 Department of Labor to start adjudicating claims.
21 Because we prepared the dose reconstruction methodology
22 rules as an interim final rule, in October we were
23 allowed under that interim final rule to commence doing
24 dose reconstruction work on claims.

25 Now that we have a final rule in place, we can start

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1 completing those dose reconstructions and sending those
2 back to the Department of Labor for final decision. To
3 date, we have 7 dose reconstructions completed out of
4 that 4,000 number of cancer-related claims you saw Mr.
5 Turcic present in a slide. This is very labor-intensive
6 work. I have a staff of 4 health physicist and I'm
7 looking forward to the contract that we're about to
8 award that will provide a huge amount of technical
9 support where we can see more claims processed quicker
10 in this setting.

11 We also -- in the 50 referrals that we have from New
12 Mexico that Mr. Turcic provided you, we have done three
13 interviews. Each individual claimant has an interview
14 with us to provide their information, as well as the
15 information that we get from the Department of Energy,
16 and we also use our own research information from the
17 many research studies we've conducted across the
18 complex. But the claimant's interview is very important
19 to us. It allows us an opportunity to hear directly
20 from the claimant about their work experience, what
21 situations they encountered, and what they can tell us

22 about their exposure to radiation that may not have been
23 accurately or adequately captured in their dose
24 records.

25 When we talk to a survivor who's filed a claim, we

27

1 seek from that survivor, who may not know what their
2 spouse actually did in the work environment, we seek
3 from them co-workers who we may talk to and seek an
4 interview with and get an affidavit from about the work
5 history and experience that the claimant might have
6 experienced. HHS, as I said, is developing the petition
7 guidelines for a special exposure cohort, and we hope to
8 have them out very soon. We anticipate a 60-day public
9 comment period that will coincide with the next advisory
10 board meeting, which has been scheduled for July 1st and
11 2nd in Denver. I would encourage you if you can, to
12 make the trek up to Denver and attend that meeting and
13 have your voices heard in our public comment period.

14 I believe I'll stop at that point. I look forward
15 to taking questions. I look forward to hearing your
16 thoughts and your concerns. And again, I appreciate the
17 opportunity to be here with you today.

18 (Applause.)

19 MR. LEYBA: Thank you, Larry. Thanks to
20 all of our speakers. Well, now you've heard from us.
21 Now it's time for us to hear from you. A couple of
22 things. Quickly, I want to say we did, in fact, try to
23 get a larger room for today, but it's a graduation
24 weekend and in fact, we got bumped for that. We're
25 going to hear from three groups here: One, toxic

28

1 substances; the second, radiation dosimetry; the third,
2 EE0IC claims process.

3 I think we have a microphone. I was told by Ken
4 Silver we're going to start from left to right; is that
5 right Ken? Your left, my right.

6 So we're going to hear about toxic substances from
7 Ben Ortiz, Maria Garcia, Levi Garcia and Robert Maguire,
8 Ernesto Archibeque, and then Alex Smith. And so with
9 that, I think we're going to go on ahead. Thank you.

10 MR. ORTIZ: My name is Ben Ortiz. Senator
11 Bingaman, Congressman Tom Udall, Beverly Cook, Larry,
12 and Pete. My name is Ben Ortiz. I'm a mechanical -- I
13 was a mechanical tech from 1969 to 1989 at TA 53. I
14 have an illness I've acquired since 1970 from
15 overexposure to chemical agents during my employment at
16 Los Alamos National Laboratory.

17 In 1988, I became so ill from the exposures that
18 LANL placed me on medical leave, stating that I had a
19 serious but treatable medical condition. They didn't
20 say what the condition is. The following summer in
21 1989, I was forced into medical termination, as doctors
22 advised me that my health was too deteriorated to
23 tolerate the contaminated worksite I was required to
24 work at.

25 When I began employment with LANL in 1969, I was

29

1 given a physical exam by the occupational medicine
2 hospital that they have up there at the lab, and I

3 checked out fine. I was a very healthy person. I can
4 guarantee you that. I was not informed that the work
5 environment or the materials that I handled would be
6 detrimental to my health.

7 During my employment, I worked directly with
8 trichloroethylene, trichloromethane, acetone, freon,
9 nitric acid, many of the toxic materials and on and on.
10 I was never informed that these toxic substances are
11 dangerous, much less provided with any protective
12 safety.

13 In 20 years of employment with LANL, I never had any
14 safety briefing on the hazards of chemicals, or there
15 was no MSDSs available. I was told that no one gets sick
16 at LANL. Okay. Again, I was told that no one gets sick
17 at LANL. I don't know why they would say that.

18 In 1972 was the beginning of persistent sore throat,
19 coughing with sputum and chronic sinus infections. In
20 later years, I began experiencing pain, irritation,
21 swelling of my eyes, weakness, nausea, headaches,
22 insomnia, and difficulty concentrating. My condition
23 deteriorated so bad that the agency for occupational
24 medicine placed me on medical leave, in a search for an
25 answer to the cause of my medical problems. The Lab's

30

1 response was that it was my imagination, phobia, that I
2 was practicing witchcraft, and that I abused drugs
3 and -- okay -- that I abused drugs and alcohol. Those
4 claims are absolutely false. I repeat, they are false.

5 After many years and many visits to private doctors
6 who could not diagnose or treat me, I visited Dr. James
7 Cron at San Francisco General Hospital, a leading

8 physician of occupational long-term exposures. I was
9 finally diagnosed with solvent encephalopathy and
10 restricted airway conditions.

11 Senator Bingaman, we are your constituents, but by
12 the time the program was passed into law, only certain
13 illnesses were qualified, and very few of those cases
14 are here in New Mexico. I believe that all occupational
15 illnesses are equal. Why is illness from toxic
16 substances different from beryllium, or cancer? We have
17 all suffered greatly.

18 You told us in our meeting at St. Joseph's Hospital
19 over a year ago that you were trying to have toxic
20 substances included into the program. You raised the
21 hope of so many people two years ago by leading us to
22 believe that after so many years of being ignored,
23 retribution was forthcoming. Those hopes have been
24 smoldered because toxic substance sufferers were ignored
25 again.

31

1 Employees are placed in harm's way, and LANL, the
2 University of California, and DOE locked away their
3 secrets. They allowed people to get sick, and in some
4 cases, die. It takes a person with integrity and
5 compelling conscience and strength that will not back
6 down under pressure to do the right thing. You hold the
7 key to unlock the door. I hope you have what it takes
8 to do it. I would like to impress upon you, this is the
9 rest of my life. My family is well.

10 When I was hired by LANL, I thought I had a bright
11 future there. I never thought my job would make me
12 sick. My livelihood and ability to provide for my

13 family was taken away. I could be retired by now.
14 Instead, I must continue to fight this battle that
15 should not have been fought. I worked at LANL, got sick
16 at LANL, and now atonement should be made by LANL.
17 Please stop treating Northern New Mexico LANL employees
18 as second-class citizens. We deserve to be looked upon
19 as equal to any other group of occupational illnesses.
20 We deserve compensation, too. We deserve for you to
21 fight for us, the two of you, Senator Bingaman and
22 Congressman Udall, to work together to make this
23 happen.

24 If we, your constituents, who have -- oops, I need
25 to turn -- encourage you to serve us in Washington. You

32

1 are there to make sure there is a balance between the
2 giants and just the common people. I would also like to
3 request another meeting with Bingaman and Udall. I
4 don't believe that we have time in three minutes to
5 discuss all the issues that we have. And I'm hoping
6 this will happen. Thank you.

7 (Applause.)

8 MS. GARCIA: My name is Maria Garcia. I'm
9 a survivor. My husband used to work for Zia Company.
10 He worked for 26 years. He started working in 1955, and
11 by 1960, he was already -- according to the medical
12 records, started to get, you know, from his kidney
13 disorder. And I would like to ask Senator Bingaman and
14 our Congressman to support us to make this law to help
15 us families with this kidney disorder. That's all I
16 have to say. Thank you.

17 (Applause.)

18 MR. GARCIA: I'm Levi Garcia. I'm a
19 17-year employee of the security guard force at Los
20 Alamos. In December of '88, I was exposed at TA 55 to a
21 chemical spill that involved nitric acid. I'm currently
22 receiving my medical treatment at National Jewish
23 Hospital in Denver, and we need help here in Northern
24 New Mexico with our illnesses pertaining to the Lab.
25 Thank you.

33

1 (Applause.)
2 MR. MAGUIRE: My name is Bob Maguire. Our
3 office represents Mr. Garcia in his worker's
4 compensation claim pending in front of the
5 administration. I have one comment I want to make on
6 Subpart D. I have reviewed, not the most up-to-date
7 one, but the one that came before. And I think one of
8 the problems is that it kind of almost creates, as
9 opposed to what I think the Congress intended, a crazy
10 quilt, because, you know, you have certain rules in
11 certain states and other rules in other states and
12 different levels of benefits. And I thought Congress
13 intended to provide a uniform structure with: This is
14 what the test is going to be, this is what the benefit
15 should be. And if that was Congress's intent, you
16 should certainly revisit it because the rules and
17 regulations certainly don't do that.
18 I would also encourage you to think seriously, since
19 a lot of these contractors are cost plus contractors
20 that they not be allowed to endlessly fight the worker
21 and then pass that on to the taxpayers of the United
22 States of America as a cost that's not a legitimate

23 cost. What's happened to Mr. Garcia has been -- another
24 law firm is representing him in a tort claims action
25 against the Lab. Those folks have pulled in the

34

1 manufacturer of the jar or container that this nitric
2 acid was contained in.

3 My understanding is when I talked to Levi and his
4 wife, that the judge has ruled that there will be a
5 hearing in September. The folks who manufactured the
6 product wanted to put it off for another year. It's
7 already been four years.

8 It took us the better part of three years to get his
9 worker's compensation up and running. We had to get it
10 removed and away from the University of New Mexico
11 Hospital and up to National Jewish, where they
12 said, "You know, hey, this is causally connected." And
13 he was ordered back to work. You've also seen Levi and
14 heard -- I mean this is a condition he's in on a daily
15 basis, and he attempted to return to work.

16 We got the change of health care providers. To
17 date, the University of New Mexico has been paid
18 approximately \$38,000. National Jewish has been paid
19 \$8,000, but they have done more for him, I can assure
20 you. Dr. Moseley, Cynthia Moseley, up there indicates
21 that he cannot work. Dr. Moseley at UNM has come around
22 to the same conclusion now. A lot of money was spent on
23 lawyers and nurses to follow around and help the doctors
24 decide on what to do.

25 In New Mexico at the time he was injured, the comp

35

1 rate was \$375.99 a week. Basically, that means that he
2 was making \$60,000 a year. Under Worker's Comp, he gets
3 about \$20,000. Our office also got him on Social
4 Security disability. He makes about \$1,500 a month off
5 of that, so there's another \$18,000. That puts you up
6 to about \$38,000. And the situation is this: The
7 Congress said, "Well, you can't go on disability for
8 more than 80 percent of what you were making." Well, 80
9 percent of what he was making would be \$48,000, so she's
10 still \$10,000 short of that.

11 You know, these people are all good people. And
12 after 9/11, when there's been so much talk about
13 patriotism and doing the right thing by people who
14 helped their country, on behalf of Levi and others
15 similarly situated, I would just ask the Congress and
16 the Administration to remember those words and not let
17 them be hollow, empty phrases. Thank you very much.

18 (Applause.)

19 MR. SMITH: My name is Alex Smith. I'm a
20 33-year employee with the Lab. I testified before Tom
21 and Senator Bingaman and David Michaels the last time.
22 I went to work for the Lab in 1947 in the chemical
23 warehouse. Tom and Bingaman already know and I've been
24 doing this for your benefit.

25 I went to work for the chemical warehouse there at

36

1 the Lab in the old TA 1. My duties were clerk and to
2 issue laboratory chemicals and laboratory glassware, and
3 when we had time, I'd run a mercury, still, me and

4 another fellow named Lewis Devetima.

5 In 1948, early in 1948, I started having trouble.
6 My face would swell up, and my gums were bleeding. And
7 I would go down to Q Building to see Dr. Whipple, and he
8 would send me home. He said, "You're allergic to
9 something," and that was it.

10 And when my face went back down, I'd come back to
11 work and it would happened all over again. About the
12 fourth time, I got to see Dr. Harriet Harding, who was a
13 consultant there, and she interviewed me. Luckily, I
14 got to see her. And she asked me where I worked, and I
15 told her. She asked me what my duties were, and I told
16 her that I run a mercury still when I didn't issue
17 chemicals.

18 She said, "You're operating what?"

19 I said, "I operate a mercury still."

20 She said, "Take me up there and show it to me."

21 So I did. She shut it down. And so we were full,
22 me and Lewis Devetima were full of mercury. We used to
23 heat it, and it had a still, like it was made out of
24 glassware. It would go through this, heat it, and form
25 a gas, go through that, come out condensed on that end,

37

1 pure mercury. And we would breathe in vapors, and it
2 was in a small 10 X 10. The old warehouse there in TA 1
3 was a shed. It was formerly the stable for the school
4 that was there before the Lab took over, and they
5 converted it into a chemical shop.

6 Anyway, when I retired in 1982 -- prior to 1982, I
7 suffered from depression, bleeding gums, and so I went
8 to the doctor there at the Lab. I was in very bad

9 shape, and she sent me to a sanitarium in Albuquerque,
10 and I spent some time there, about two or three weeks.
11 I then was on an outpatient to Dr. Kenneth Poole there
12 in Albuquerque for about three years.

13 And then I came back and was under the tutelage of
14 Dr. William Oakes who worked for the H Division, and
15 then he retired. And I saw Dr. Charles Shafer, and then
16 he retired. And then I saw Dr. Ralph Greer. And
17 anyway, when I retired, I noticed that there was no
18 record of this sickness on my medical records.

19 And I asked Dr. Greer why. And he said they
20 searched and they searched and they searched and they
21 even went back into the microfilms, and they could find
22 no evidence of anything to do with a mercury still or
23 anything. So I retired thinking that.

24 When I testified before Mr. Bingaman and Mr. Udall
25 and Mr. Michaels, I didn't have any evidence. It was my

38

1 story against theirs. And I have met a fellow named Ken
2 Silver. He found these letters from Dr. Harding telling
3 the whole story in six letters, and the DOE database of
4 historical documents, it tells the whole story about me
5 and Devetima's sickness, about the mercury still, their
6 shutting it down.

7 These are all H Division letters to our division
8 leader, Van Gammer, Assistant Property Division leader.
9 Yet they couldn't find them. There was no evidence.
10 They're here, right here. Everything I have reverts
11 back to those six letters. In one of them, she refers
12 to a fellow name Carl Butler. I happen to know Carl
13 Butler, so I wrote him a letter telling him what was

14 happening. He wrote me back a five-page handwritten
15 letter confirming everything that I said when I
16 testified, everything, even to closing down and admitted
17 that nobody in 1947 and 1948 in H Division knew anything
18 about mercury until an industrial engineer named Harold
19 Sheeton -- Harry Sheeton -- came on board, and this was
20 months later.

21 And after I got that letter from Butler, I wrote a
22 letter to Mr. Udall and Mr. Bingaman, asking him -- I
23 sent them a copy of those six letters. I didn't give
24 them a copy of this, but I did take it to Mr. Udall's
25 office, everything I had, when you were in Federal Place

39

1 over there, and I gave it to Raul and he made copies of
2 it. He said he would forward it on to you, your
3 office.

4 And this is my letter to Senator Bingaman asking
5 that you amend that Act to include mercury. I don't
6 know what happened there. I got a letter from Mr. Udall
7 there, and he asked that I get documentation. So I've
8 got it. Don't you think I have it? And you asked for
9 names and addresses of people that are working. I can
10 give you names, Mr. Udall, but they all got one
11 address: Cemetery. There's no -- me and Mr. Butler are
12 the only ones alive that I know that knew about that
13 mercury still, and why I'm still around, I don't know.

14 After that, Mr. Silver came up with a couple more
15 publications by Dr. Harriet Potter on mercury
16 poisoning. Anybody that knows anything about mercury
17 should read it. She even enlightened me. I guess she
18 really dug in to her research. And in this -- the other

19 one is Challenging Manmade Decisions by Harriet Potter.
20 I'll read you just one paragraph here.

21 On page 54 it tells about the year 1948 in Los
22 Alamos, nonradioactive acting hazard material in use in
23 Los Alamos. "An example will make this clear. Very soon
24 after I began active duty, a worker came to the nurse in
25 H-2 complaining with bleeding gums and skin rash."

40

1 That's me. "In taking his job history, I found he and
2 three other men were engaged in cleaning dirty mercury,
3 an element widely used.

4 "Next, I visited the job site. And even though I
5 had no engineering skill, I knew from my Massachusetts
6 Department of Occupational Hygiene experience that the
7 mercury hazard was great in this dirty, shed-like
8 building."

9 I could go on, but I haven't got time, but you get
10 the drift. And I don't know where to go from here. I
11 know mercury is not covered in the Act. Like I say, I'm
12 asking you to amend it to include mercury. Thank you
13 very much for listening to me. I'm probably out of
14 time.

15 (Applause.)

16 MR. LEYBA: The next person will be Phil
17 Schofield.

18 MR. SCHOFIELD: Thank you for coming,
19 Beverly Cook and Congressman Udall, Senator Bingaman,
20 Mr. Turcic, Mr. Elliot. I'll try to keep my time short
21 here.

22 I worked for Los Alamos National Lab for 2 years. I
23 suffer from several severe health problems, multiple

24 chemical sensitivities, H0 cervical syndrome,
25 respiratory problems, severe dermatology problems,

41

1 swelling of my extremities. I have short-term memory
2 and concentration deficits, and plus I lost almost half
3 my hearing.

4 Mainly what I would like to address is some problems
5 with the reconstruction of people's dosages. I can give
6 you two quick examples where personnel worked in the
7 same room. One was a -- it depended on your job. You
8 were working with high gamma. The trouble with that is
9 both processes were going on, Pu 239 on one side of the
10 room, Pu 238 on the other, high neutron gamma on the
11 other. Room 429 had a number of chemical processes plus
12 the gamma factor. There again, depending on which job
13 you were assigned, you had one in back of the other.
14 The truth is, you were exposed to both.

15 Another practice was the wearing of film badges
16 under lead aprons for people who worked with
17 high-radiation items, such as back out or a glove box.
18 This practice was not discontinued until 1989 or 1990.

19 Another thing I would like to address is the fact
20 that I've made repeated requests for my radiation
21 exposure records and still have not been able to get
22 them. According to my dosimetry readings for 1979 it
23 was zero. For 1978, I had .083 for my whole body. For
24 1982, zero. This is impossible. I spent five days a
25 week around either, plutonium or uranium.

42

1 DOE has submitted in a letter to IEER that, 1.)
2 External support data is often incomplete and
3 unreliable. 2.) Raw dose data and electronic versions
4 of data do not always agree. 3.) In some cases, worker
5 dose records contain empty statements that the dose was
6 zero, regardless of what the actual dosimeter reading
7 may have been. In order for more accurate dose
8 reconstructions, LANL needs to fully cooperate with the
9 Center for Disease Control historical documents
10 discovered by them. LANL should probably provide access
11 to all incident reports, health physics, log books, and
12 health physics room surveillances, also any documents
13 relating to the processes and materials used at LANL.

14 Finally, NIOSH should not contract for dose
15 reconstruction services with companies that are
16 economically dependent upon DOE or its contractors.
17 Thank you.

18 (Applause.)

19 MR. LEYBA: The next speaker will be Len
20 Trimmer.

21 MR. TRIMMER: Good afternoon, gentlemen
22 and people in the back. My name is Leonard Trimmer. I
23 was an employee of Los Alamos from December '62 'til
24 November of '90. I am now retired. I went out on
25 disability. But I'm not putting in a claim yet. My

43

1 bullet hasn't hit.

2 Senator Bingaman, Mr. Udall, these gentlemen, on
3 March 18, 2000, I handed you, Mr. Bingaman, a video
4 tape. Your staff member took yours. I don't know

5 whether you viewed it or you didn't view it, but I
6 didn't have any response from you for all those video
7 tapes of workers working in Area G at Los Alamos.
8 Either you understood everything or you didn't view it.
9 I would suggest if you didn't view it, you better look
10 at it. It's very important.

11 This was a bootleg tape that was taken with LANL's
12 camera. They were playing with a camera and it shows
13 them covering drums from Area G. It shows the workers,
14 how they're treated. It shows them not being dressed
15 out in protective clothing, no respirators. In one
16 statement on the tape -- like they say, a picture says a
17 thousand words. This says a bunch. On the tape there,
18 a PhD states that people are not supposed to be
19 breathing the silica dust up there at Los Alamos.
20 Nobody's wearing a respirator.

21 The other thing is they also said that there was
22 radionuclide high in the air. Nobody's wearing a
23 respirator. In fact, people were wearing civilian
24 clothes. So after they got done working, they went home
25 with this on their clothing, which contaminated -- could

44

1 have contaminated their own homes.

2 The health physicist monitor at the time there and
3 saw the tapes that he just didn't know what he's doing
4 there. This is just a tape.

5 Now I worked out there. I worked at -- first off, I
6 worked at TA 8. I was an inspector. I was a
7 radiographer, and I did ultrasound. I was all over the
8 Lab. I worked all over. I was with the service group.
9 I got transferred to Area G facility for drums going to

10 WIPP, which is a long story, which they falsified
11 documents there, too.

12 Anyway, in Area G -- that's the main dumping area --
13 the main dumping area contains asbestos, PCB solvents,
14 toxic acids, radionuclides of all types. For example,
15 plutonium, cesium, cobalt from enriched uranium. Let me
16 go back to freon gas for a minute. It's in a barrel and
17 they put a lot like nuclide in there to hold off the
18 gas. But I have a document like this that says it's
19 still leaking out, and they can't do nothing about it.
20 So here are these tapes. Please view this stuff. Film
21 badges or anything else can't be reconstructed to show
22 them what they're breathing. And that was the only
23 thing that was included in all these radionuclides and
24 any other trash. There are also human body parts out
25 there.

45

1 Now the claims with LANL when people were working
2 out there in Area G are -- LANL and DOE will claim that
3 there are safety devices in place, which is true
4 technically, but the question is, are they working, and
5 are they working properly? No, they're not, not at all
6 times. Not at all. They are turned off. They're --
7 one of them has a roll chart on it. If the chart gets
8 jammed, they take to the monitor to fix it. He tears it
9 off, throws it away and starts over again. Nobody knows
10 what's going on.

11 They also have what they call a sniffer. That's
12 where they put a vacuum pump on it, they bring air in
13 and a filter in front of it. Sometimes these won't be
14 changed for months or days. The ones checking it,

15 they're not controlling it. They might drop it on the
16 floor or whatever. If that happens, he just throws it
17 away or she does. There is no way LANL, that I know of
18 -- I don't work any other places -- at LANL, I'm
19 talking about, because I have seen them -- can
20 reconstruct anything because their records are flawed
21 totally.

22 Now film badges, everybody who works in a radiation
23 area carries a film badge plus a Kelly badge. If you
24 get killed, they want to know how much killed you. And
25 this is a little packet that has zinc and sulfur and

46

1 whatever else they can check to see how much dose rate
2 you get. But the film badge is a plastic container with
3 a piece of film inside. Now radionuclides are alpha,
4 beta, and gamma. Alpha isn't going to go through that
5 film badge. But if it gets on a person, it's going to
6 get right to the marrow, and that's where we had a lot
7 of problems with people when they were painting the, you
8 know, the badges are deteriorated.

9 So alpha is no -- they don't know alpha. They don't
10 know anything about alpha. But what's really funny is
11 this gentleman just said to you, everything turns up
12 zero. Mine turned up zero, too, all the time. The only
13 time I got a dose is when I was working at the Nevada
14 Test Site. Now I was working with sources for making
15 X-rays, cobalt, beryllium 172, cesium. These are heavy
16 doses. I used to carry an ionization chamber in my
17 pocket, next to my film badge.

18 The Ionization chamber would say something, that I
19 got a dose. My film badge was zero. I always had

20 zero. This is the only place where it was zero, at Area
21 G. Other workers are also zero. But the question is,
22 is this. On the wall, the lab would put a packet with a
23 Kelly badge, a film badge, an ionization chamber.
24 Anybody care to guess what those had on them? They had
25 doses. Now how in the world can somebody work in a

47

1 place and get zero, whereas the room is getting a dose?
2 In other words, as one of our great Presidents said, if
3 it's not the truth, it's a lie. And they are lying.
4 And anybody that takes the truth of that lie and
5 projects it as a truth and knows it are liars also.

6 And that's what this is all about. Now what I would
7 like to see is cohort for Area G. That's a good place
8 to start. That's the dirtiest place I've ever seen.

9 The other thing is, I would like you to have the
10 contractors, when they come up and say, "Okay, you've
11 got lung cancer. You smoked at one time, so we're not
12 liable." No. If they contribute to that lung cancer,
13 let them take the whole problem. We put our butts on
14 the line, so let's let them put theirs.

15 Another things is giving them the money to rectify
16 this from out of our taxes. No. Let them take it out
17 of their budget. Let them pay it. I fought the Lab and
18 I fought them with my own tax money, and then I fought
19 my own lawyers with that money. That ain't fair. You
20 know, you can't beat city hall. They've got too much
21 money, plus they got too much political pull in
22 Washington DC.

23 Well, I for one am tired of fighting this
24 bureaucracy and the bureaucrats in Washington and now

25 DOE. You two gentlemen, you're elected. You can get

48

1 fired just by getting voted out of office. But the
2 bureaucrats protect their butts by having something on
3 somebody else so they can keep their jobs. So I thank
4 both of you for listening to me. And you, Mrs. Cook,
5 Mr. Michaels' secretary has a copy of that tape I
6 mentioned if you want to get a hold of it. If you have
7 any questions to ask me, that's fine. I have a lot more
8 to tell you. I have a lot more records, and it's all
9 true. I won't lie to you. So if you have anything to
10 ask me please feel free. If you don't know how to get a
11 hold of me, get a hold of Ken Silver. Thank you very
12 much.

13 (Applause.)

14 MR. LEYBA: Our next speaker is Richard
15 Espinosa.

16 MR. ESPINOSA: Hello. I'm a union officer
17 of Sheetmetal Workers Union Local 49. As sheetmetal
18 workers in New Mexico, I represent members at Los
19 Alamos, Sandia, Pantex in Amarillo, Texas. I'm honored
20 to serve on the Advisory Board on Radiation Worker
21 Health, the federal committee which advises NIOSH on the
22 implementation of energy employees compensation law.
23 Regrettably, I'm the only worker of the 11 board
24 members.

25 Senator Bingaman, Mr. Udall, I want to take a moment

49

1 to thank you both for the work on the Energy Employee
2 Worker Compensation legislation. Although this
3 legislation needs improvement, you have created a
4 foundation upon which we can build. Without this law,
5 we would have no basis for improvement and reform. We
6 know it was difficult to pass this legislation. Thank
7 you.

8 (Applause.)

9 The good news is that improvements have already been
10 made. Last year Senator Bingaman and Udall helped fix
11 the survivor provisions. This benefits members of my
12 Local Union and the Hawkis family. The Hawkises were a
13 long time member of Local 49. This compensation
14 legislation is very important to the sheetmetal workers,
15 present and past, as well as working families at Los
16 Alamos.

17 Let me also thank Senator Bingaman for working on
18 legislation that will make health and safety rules
19 enforceable in the DOE complex, including Los Alamos.
20 For over 50 years, workers' health and safety rules have
21 been violated by DOE contractors without any fines or
22 penalties. These contractors have not been held
23 accountable.

24 Two days ago, the Bunning Kennedy Amendment was
25 added to the Defense Authorization Act. Senator, we

50

1 appreciate the efforts by you and your staff to work out
2 a compromise that will make OSHA rules enforceable with
3 fines up to \$100,000 per day for each violation. I know
4 that NMSA, Los Alamos Labs and Assistant Secretary
5 Beverly Cook oppose the workers' safety requirement.

6 Everyone here, and those on the job should know that you
7 decided to stand with the working people of New Mexico
8 to protect our health and safety. Thank you, Senator.

9 (Applause.)

10 If we had to protected workers' safety all along, we
11 might not be here today talking about helping sick
12 workers. The federal advisory board set up under the
13 new workers' compensation law to oversee the program was
14 supposed to have developed scientific medical and
15 workers perspectives. This is what the law says. But
16 there is only one worker, myself, out of 11 members on
17 this board. The White House did not follow the
18 requirements in the law in making appointments.

19 The board is dominated by current and former DOE
20 contractors, consultants, officials and engineers. In
21 fact, 7 of the 11 members of the Board have conflicts of
22 interest, letters which need a balance to -- and
23 viewpoints in board as well as in independence.

24 Special cohorts. The derived report that is
25 supposed to review petitions to expand special exposure

51

1 cohorts for radiation dose cannot be estimated with
2 sufficient accuracy. Today we are meeting 18 months
3 after the law was passed, but NIOSH has no policy for
4 special cohorts. Workers are left hanging, waiting for
5 the administration to act. We are disappointed that
6 NIOSH will not involve the advisory board in developing
7 this policy. I hope the policy, whenever HHS decides to
8 issue it, is something that doesn't require board
9 legislation to fix.

10 Conflicts of interest. NIOSH staff has worked hard

11 to get this reconstruction work started. We commend
 12 their efforts. Unfortunately, there are not enough
 13 federal employees to do the job, so NIOSH is going to
 14 contract out the work. Two of the bidders are SAIC and
 15 Oak Ridge Associated University. Both are heavily
 16 dependent on DOE for contracts and profits. Neither is
 17 independent. If this conflict of interest problem is
 18 not fixed, the dose reconstruction will not have any
 19 credibility with the workers or claimants.

20 The Energy Employees Occupational Illness
 21 Compensation Program Act accounts for smoking. Congress
 22 equalized uranium miners' RECA law and the Energy
 23 Employees Occupational Illness Compensation Program Act
 24 by making payments equal. But in other ways, the law
 25 are different. Under the RECA law, smoking history is

52

1 excluded from decisions on whether to compensate uranium
 2 miners. Why is it fair to include smoking history as a
 3 criteria in the nuclear workers law when it was removed
 4 from the RECA law? We do not believe that people should
 5 be disqualified from compensation under the DOL program
 6 because they smoked. Workers at Los Alamos were put in
 7 harm's way by the government as part of making materials
 8 and performing maintenance on equipment for the Cold
 9 War.

10 Thank you, Senator Bingaman, Congressman Udall.

11 (Applause.)

12 MR. LEYBA: Our next speaker is Ernesto
 13 Archibeque.

14 MR. ARCHIBEQUE: My name is Ernesto
 15 Archibeque, and I worked in Los Alamos for almost 31

16 years since 1961. And at that time I was in the
17 custodial section, working as a janitor. We were no
18 union at that time in the custodial section. And then
19 with no union, we had to go in any area they wanted us
20 to go or you lose your job. That's the way it was. No
21 union.

22 In 1967, they found according to my record -- I just
23 got them not too long ago, my medical records from Los
24 Alamos -- that my lungs were scarred inside.

25 And then in 1986, I believe, there is another

53

1 report there that my lungs were scarred in 1986 there.
2 And right now, I'm on 16 liters of oxygen. I don't
3 think I can go any higher. That's it, I think.

4 But I also want to speak for some of the people that
5 worked under my supervision that are here because they
6 went through what I went through. We cleaned asbestos,
7 we cleaned anything. We were the ones that done the
8 dirty work up in Los Alamos, and you can ask anybody and
9 they will tell you that is the truth. Believe it or
10 not. Really.

11 I know some of these people that are here. I can
12 speak for them because I seen them go in to the same
13 area that we went, and know -- and like I said, they're
14 not lying to you. I know this. If they went to the
15 area that I went to they are sick, too. I'm sure that
16 they're sick. The only thing I want to ask you people
17 that I would like to see some help in my lifetime, not
18 when I'm dead. Thank you for listening,

19 (Applause.)

20 I know I'm having a rough time now to -- I mean, to

21 speak because like I said, I just took my mask off. I
22 have to use this, and I have to use those that I have
23 here, you know, but I think I can make it all right.
24 Like I said, Mr. Archuleta here, Louie Archuleta, has my
25 records, the record that says that my lung was scarred

54

1 inside. That's what it was. That's when it says right
2 there.

3 And I want to thank you people for coming here, Mr.
4 Udall, Mr. Bingaman and the rest of the people, cause
5 I'm running out of oxygen and I have to get out of here
6 or I'll never make it home. Okay. Thank you very
7 much.

8 (Applause.)

9 MR. LEYBA: My name is Jerry Leyba. I
10 worked at Los Alamos National Laboratories at TA 55
11 CMR. I was a monitor RCT a radiological control
12 technician, and worked with plutonium 238, 239,
13 Americium 241, Cobalt 60, cesium 137. As a monitor, we
14 took care of people and how they were coming out of
15 contaminated areas.

16 But I want to address quickly, too, Mrs. Cook, that
17 you were talking about retaliation. There is a fear
18 factor with a lot of the present employees that did not
19 want to file a claim because they are afraid to lose
20 their job, and a lot of them have stated that you're
21 going to keep a close eye on them.

22 The access of records monitors what we call HBTs,
23 RCTs. Every day they have to write in a log of any
24 occurrence or incident or any type of contamination.
25 Those log books hold a lot of truth. And also, the

55

1 people, the claimants, the burden of proof is upon the
2 claimant. It is so hard for these claimants to go
3 through the process because of the tie up of the
4 bureaucracy. It has to be an easier source, Senator,
5 that these claimants have access to the records.

6 Also, I just wanted to say that President Kennedy
7 once said, "Ask not what your country can do for you,
8 but what can you do for your country?"

9 Senator and Congressman, these folks have done their
10 service to their country. It is time now for the United
11 States of America to pay back to these people. If we
12 can give millions of dollars to Afghanistan and to other
13 countries around the world, these people have given to
14 their country. They're United States Americans, and
15 they need to be compensated for what they've done.

16 (Applause.)

17 MR. LEYBA: Our next speaker is Danny
18 Beavers.

19 MR. BEAVERS: Good afternoon. My name is
20 Danny Beavers. I'm a business representative for the
21 members of Pipefitters Local Union 412, and my reason
22 for being here today is a little different. I don't
23 have a claim filed at the compensation office. I
24 represent 150 people probably, in Los Alamos or more,
25 1,600 throughout the state that work in several DOE

56

1 facilities.

2 The people we represent have pride in their work are
3 trying to do a good job and they're trained in the craft
4 they do. They go work in these facilities and they're
5 exposed to things that they're told it won't hurt them
6 because some professional, somebody who is trained in
7 something else tells them it's okay. But then it turns
8 out not to be. Then they come and they try to be
9 compensated for the work they did, and they're told,
10 "Well, you never worked there," or "We've got to
11 reconstruct your dose rate," or "We have to do this or
12 that."

13 When they did the work, they didn't ask the
14 questions. They did the work, and all they're asking
15 back for is to be treated fairly. I worked with Dr.
16 Michaels. I was glad to see him here today and to try
17 and get this office opened in Espanola. They were going
18 to move it somewhere else, and we recommended that they
19 open it here. It's a central location for people from
20 the Valley, from several that work in Los Alamos.

21 But I was glad to see what you said a while ago,
22 that there was 500 claims filed through this office, and
23 two paid. And not that there was just two paid, but
24 I've been trying to find out for a month and a half how
25 many claims were filed through this office and how many

57

1 claims were paid. I understand there is hundreds of
2 claims paid throughout the country and two in New
3 Mexico, that has thousands workers.

4 There's something wrong. I'm not saying it's wrong
5 with the office. But if you have a program that's
6 working and you have pride in that program, those

7 numbers need to be out there so we can all see them, not
8 hidden somewhere to where people think that this is not
9 working.

10 (Applause.)

11 It needs to be published in the paper. It needs to
12 be put out for people to see, and show them that it's
13 working, and if it's not, why it's not, and what do we
14 need to do to fix it. But I would just like to say
15 thank you for taking the time to come listen to us to
16 today. I know you're all very busy. And that's all I
17 need to say. Thank you.

18 (Applause.)

19 MR. LEYBA: Senator and Congressman,
20 there's a lot of people wanting to speak. I'm trying to
21 give three minutes to each of the folks because there a
22 lot of folks back there that want to say things to you.
23 But we've got to continue here with our main speakers if
24 we may, please. Our next speaker will be Mr. Bill Van
25 Buskirk, and then Jonathan Garcia is next.

58

1 MR. VAN BUSKIRK: Can you hear me in the
2 back? Greetings to our distinguished guests, concerned
3 parties, and fellow workers. I would like to take this
4 opportunity to personally thank Dr. Michaels, Senator
5 Bingaman, and Congressman Udall for realizing the need
6 for and their determined effort to bring about the
7 enactment of the Energy Employees Occupational Illness
8 and Compensation Program. I can tell you this afternoon
9 that my claims for chronic beryllium disease has been
10 accepted.

11 (Applause.)

12 And compensation wired to my bank of choice on May
13 1st of this year, just one day short of nine months
14 after the Labor Department received my claim in
15 Washington, DC on August 2nd, last year. I would like
16 to say that I was informed this year by the Los Alamos
17 Lab that my \$25,000 medical allowed by New Mexico
18 Workman's Comp has been depleted.

19 I would like to share with you some of the problems
20 that I experienced prior to the final acceptance,
21 Washington, DC sent the claim to the Denver office for
22 initial processing and to review medical records, as
23 well as to confirm employment records with LANL of 35
24 years and seven months.

25 Denver requested more medical documents. One was

59

1 for a postoperative report, but the doctor that did the
2 open lung biopsy, as well as pathology reports both done
3 on January 22, '71. Lovelace Medical had these on file
4 and furnished me copies. These reports and a current
5 lung function and blood gas study that was done on
6 September 12 last year were sent to the Denver office by
7 Fed Ex in a timely manner.

8 I called Denver August 28th and October 31st
9 regarding confirmation of employment with LANL. Answer,
10 still trying. December 19 of last year, Denver called
11 regards employment with LANL and said that they are
12 working through DOE. January 11th of this year, Denver
13 called, had not had employment verification from DOE.
14 My claim in Denver office five months now. I
15 immediately faxed a July 10th, '73, memo by Dr. Volt,
16 Health Division Leader, LANL, confirming my work history

17 with Be, beryllium, and also confirmed the diagnosis of
18 chronic beryllium disease based on the results of the
19 '71 lung biopsy and pulmonary study, along with medical
20 opinions of treating physician, Dr. Mary Moston and
21 consultant and Dr. Harriet Harding.

22 January 15th this year, Denver recommends acceptance
23 of claim for chronic beryllium disease. I waited a
24 60-day period to expedite process period for objections
25 to a decision, and Denver sent claims to adjudication

60

1 branch, Washington, DC.

2 February 19 of this year, final adjudication branch
3 sends notice of final acceptance of claim for CBD,
4 compensation and medical treatment for chronic beryllium
5 disease, as well as acceptance of payment form EN-20 to
6 be filled out and returned to Washington. I faxed the
7 EN-20 to Washington requesting electronic transfer of
8 funds as recommended, on February 26 of this year, as
9 well as a copy of the EN-20 sent by overnight mail to
10 Washington for a backup. On February 28, this year --
11 on March 20th of this year, I learned that Washington
12 had wired the compensation to my bank on March 5, but
13 misspelled my name. Because of the error in the name
14 the operations manager of the bank returned the
15 compensation to the center in Washington. After frantic
16 meetings with the bank and calls to Washington, I
17 received another EN-20 form from Washington to be filled
18 out again and returned by mail. This I did overnight on
19 April 25th of this year.

20 On May 8th, I received a call from Washington saying
21 that the compensation had been wired to the bank on May

22 1st, and asked if I could confirm that deposit was
23 made. I called the bank and confirmed that the deposit
24 was made and advised Washington.

25 I would like to speak with regards to consequential

61

1 diseases. The Notice of Final Decision states that
2 medical benefits are for treatment of chronic beryllium
3 disease. Dr. Harriet Harding, Harvard Medical, states in
4 her letter of September 24, '70 to Dr. Whipple of LANL
5 Health Group that the Mankuso Cohort Study suggested a
6 significant risk of malignancy in beryllium workers.
7 Dr. Mary Moston, of Lovelace Clinic, advised me that
8 because of chronic beryllium disease, I would be more
9 susceptible to pneumonia and have significant risk of
10 lung cancer. Because of this information, I feel that
11 these consequential diseases should be included and
12 covered under the medical provisions of the Act.

13 Given the foregoing difficult delays with my claim,
14 I feel that the proposed Office of Budget would have
15 been most useful and helpful for me during the
16 processing of my claim and in the future, as well,
17 should any more difficulties occur in the medical
18 provisions of the Act. I thank you for your concern and
19 ask for your considered, continued support in this
20 effort and for restoring some integrity to our
21 government in this issue. Respectfully, William Van
22 Buskirk.

23 (Applause.)

24 MR. LEYBA: Our next speaker is Jonathan
25 Garcia.

62

1 MR. GARCIA: Good afternoon, Congressman
2 Bingaman -- I mean, Senator Bingaman and Congressman
3 Udall. I started working in Los Alamos July 7th, 1976,
4 and my first job was TA 54, which this gentleman brought
5 up a while ago, the hot dump. I was the operating
6 engineer there that buried everything that came in from
7 every site in Los Alamos. I worked there off and on for
8 close to 14 years, and I had an injury where I broke my
9 ankle and had to leave in 1990.

10 I had my first surgery on my ankle and required a
11 second surgery. When I went in for my second surgery,
12 they found leukemia, chronic meningitis -- that's hard
13 for me to say that word, but meningitis of the kidney,
14 CML. I had to go in as soon as possible because my
15 white blood cells were going up so fast that they gave
16 me about a year to live. I had one of my brothers that
17 matched, Jerry Garcia, and I was able to go in.
18 Congressman Bill Richardson helped me get my Social
19 Security because it was an emergency, and I had the bone
20 marrow transplant in Denver. I made it through. It was
21 very hard for my family and myself.

22 But while I was in there, I was under Workman's
23 Compensation for my ankle. I got a letter that they were
24 terminating me and they were offering me \$10,000 for my
25 injury. Take it or leave it, and they were terminating

63

1 me for extended absence. I had no choice. I did not
2 know if I was going to live or die. I told my wife to

3 go ahead and settle it. She needed the money to go back
4 and forth to Denver.

5 And when I got out, I never -- I didn't get any help
6 from anybody, you know, as far as Los Alamos was
7 concerned. I filed paperwork and everything through the
8 office here in Espanola. I met with Mr. Peterson, I
9 believe, an angel, and he told me he had three
10 problems. One was that I never worked at Los Alamos;
11 two, that I didn't have the right kind of cancer; and
12 three, basically I was just a liar. You know, I
13 shouldn't have bothered filing paperwork. So we showed
14 him paperwork that I had there that day and she had some
15 paperwork, and he said his office had made a mistake.

16 But they were still going to send it over to NIOSH
17 to figure out if I could have gotten leukemia working at
18 TA 54, which I buried over 100,000 barrels of
19 plutonium. I buried all the PCBs, asbestos, everything
20 that came up from TA 1, which that other gentleman spoke
21 about earlier; the DP, when they threw it down;
22 everything that came from TA 55, from TA 18, from kappa
23 to maeson, I buried it all. And if I don't qualify, I
24 don't see any of us that are.

25 I'm glad this gentleman received something, you

64

1 know, because he deserves it, and I think I deserve it,
2 too, you know, and that's why I'm here today. I
3 respectfully ask for your help, all the laborers that
4 worked at TA 54, because we were told not to worry about
5 it. It was low level. We couldn't pick up anything.
6 It was a training center for the monitors. They didn't
7 have to wear badges. It was an open area, really. The

8 monitors weren't trained.

9 I came home several times with coveralls and
10 booties. They buried my clothing, and there was never
11 anything done about it. My records have been totally
12 wiped out. They aren't there. You know, I'd like to
13 see something done about that. Again, thank you.

14 (Applause.)

15 MR. LEYBA: Our next speaker is Mr.
16 Felimon Casados.

17 MR. CASADOS: Good afternoon, Senator
18 Bingaman, Congressman Tom Udall, and Department of
19 Energy Assistant Secretary Beverly Cook, and also fellow
20 Los Alamos employees, past and present. My name is
21 Felimon Casados, and as a patriotic American, I served
22 my country in the United States Navy from 1948 to 1952.
23 I continued my service by working at Los Alamos Nuclear
24 Laboratory from 1963 to 1993. I worked for several
25 contractors, Zia, Pan Am, and Johnson Controls.

65

1 I feel all of this work was directed towards the
2 contribution of our defense of our country. In June
3 2000, I received a letter from Johns Hopkins Medical
4 Center in Espanola. It stated that was I was entitled
5 to a complete medical examination. I went for testing.
6 When the results came back, it stated that I had tested
7 positive for beryllium exposure.

8 On or about 2000, I was tested once again, but have
9 never received my results. In June 2000 and 2001, the
10 United States government initiated a program to help our
11 nuclear work force submit claims to become active in the
12 EEOICPA Program. On July 28, 2001, I submitted a

13 claim. This was done again in November 2001 with the
14 help of David Chavez, the U. S. Department of Energy
15 Representative in the Espanola office. This was done in
16 response to the Department's notification that kept
17 telling me that I was not in the Denver computer records
18 and also that my medical records pertaining to the
19 beryllium exposure needed to be verified.

20 On July 29, 2001, I resubmitted this claim again for
21 the third time with the help of Floyd Archuleta and Ron
22 Sanchez, of the Denver office, after meeting with them
23 in Albuquerque. Having done all this, I was asked to
24 submit a medical narrative to prove my exposure to
25 beryllium. Thanks to Mr. David Chavez and Floyd

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1 Archuleta of the Espanola office, Ken Silver and Ben
2 Ortiz, for all the help they have given me.

3 At the present time, Austin Sandoval of the Denver
4 office had given me high hopes in acquiring the help I
5 need in moving this claim forward. The process has been
6 long, and at times frustrating, due to the records being
7 lost, misplaced or mishandled. Because of these events,
8 some of my co-workers have dropped out of the program
9 because of the frustration in trying to complete the
10 required paperwork. Had it not been for these men, I
11 may very well have been in their shoes.

12 We read daily in the newspapers and hear it on
13 television where our government is spending billions of
14 dollars in aid to other countries. Understanding that
15 this aid is important, I believe that America's aid
16 should start here at home by providing the necessary
17 assistance to all of our nuclear workers throughout the

18 United States. Please remember that these workers were
19 loyal, patriotic soldiers of the Cold War performing
20 their duties.

21 It is about time these people get the medical and
22 financial assistance they so rightly deserve.
23 Hopefully, these claims from the Los Alamos Laboratory
24 will receive the same kind of attention and get results
25 with the same outcome of those submitted in Kentucky and

67

1 other parts of this country. We cannot continue to
2 ignore the deteriorating physical conditions experienced
3 by these workers any longer.

4 At this time, I would like to thank our State
5 Senator, Jeff Bingaman; our State U. S. District
6 Representative, Tom Udall; and Department of Energy
7 Secretary Beverly Cook and all the officials from the U.
8 S. Department of Labor for being here to listen to our
9 complaints. We, the Cold War claimants, did our part by
10 providing this nation with the instruments necessary for
11 the defense of our country. It is time the U. S.
12 Government did their part in supporting them. Now we
13 leave this matter in your hands, Senator Bingaman,
14 Representative Udall and Secretary Cook. Thank you very
15 much.

16 (Applause.)

17 MR. LEYBA: I think it's very important to
18 recognize Floyd Archuleta and the Espanola Resource
19 Center because they've really done a hell of a good job
20 for these folks. So thank you, Floyd, and all the other
21 folks at Espanola Resource Center.

22 (Applause.)

23 CONGRESSMAN BINGAMAN: Let me thank all of
24 the individuals who've spoken today. And I think this
25 is very useful for us to hear the specific concerns you

68

1 have, and some of those are with the legislation, which
2 you make a very good point. And Mr. Ortiz, you make a
3 very good point that we need to expand this bill to
4 cover some things that are not covered, mercury being
5 one of them, and we will proceed to do our very, very
6 best to get that done. And I will work with Congressman
7 Udall and we will give that our very best effort.

8 In addition to the changes in the bill that are
9 needed, obviously we need to find ways to streamline the
10 processing of these claims and speed that up. I thought
11 the information we received today indicated that that is
12 happening, but I think we need to be sure it happens
13 quickly enough. And that is another -- I know there are
14 many here who have claims that are awaiting some word,
15 and we need to move ahead as quickly as we can on that.

16 We also, of course, need to see these final
17 regulations and this final action by the various
18 agencies to see whether they are consistent with what we
19 intended when we passed this legislation. The intent
20 was very clear to me. The intent was that compensation
21 was to be provided to people who contracted illness
22 because of work they did at our facilities, our
23 Department of Energy Nuclear Facilities, including Los
24 Alamos, and that's the clear purpose of the
25 legislation. To the extent that this is not happening,

69

1 to the extent that there are still obstacles being
2 thrown up, we need to clear those away. And we need to
3 work closely with the administration to see that that
4 happens.

5 And so I very much thank everybody for being here.
6 We're scheduled to conclude this at 5:00, to go for two
7 hours. I know many of you may have specific other
8 issues that you want to talk to one or more of us about,
9 and we could stay around and do that individually. But
10 I think this has been very useful.

11 Let me call on Congressman Udall to make any
12 statement he likes and then we can conclude the formal
13 part of this meeting and then talk to people
14 individually after that. Tom, come on up here.

15 CONGRESSMAN UDALL: Thank you, Jeff, and
16 thank you very much to all of the panel for your very
17 moving testimony today.

18 I thought the one positive, hopeful thing that was
19 said was when Bill Van Buskirk talked about getting a
20 claim awarded within nine months. That is, I think, how
21 Jeff and I envisioned this process working within a
22 reasonable period of time, where with these complex
23 kinds of claims that you sort through it and you get it
24 awarded and you get the compensation. But clearly with
25 many of these other claims, with the presentation that

70

1 was made, when you start looking at \$190 million paid
2 out, 2,400 claims, 2,100 individuals, I mean New Mexico
3 has 684 claims, four cases paid. We haven't moved fast

4 enough, and I think we get that message loud and clear,
5 and we're going to take that back and make sure that
6 it's heard in Washington.

7 These three panels that focused on toxic substances,
8 the radiation dosimetry, and also the claims process, I
9 think were very, very helpful. The dosimetry, we heard
10 -- Jeff and I heard the same thing before. We
11 understand that many of your records were lost, that
12 things were destroyed. And that's the reason this
13 legislation was crafted in such a way so that you didn't
14 have the burden of proof when your records were lost.
15 And we're going to do everything we can to make sure
16 that it works specifically in that way.

17 And we heard repeatedly from the panel about the
18 problems in terms of the flaws and the various things
19 that had gone on there. With regard to the toxic
20 substances, I mean we need to move forward and get those
21 rules out and get everything in place to move forward
22 there. And I just leave this hearing from the panel
23 that we need to move forward quickly and expeditiously
24 and bring justice and fairness to these Cold War heroes
25 that are here with us today. Thank you very much.

71

1 (Applause.)

2 FROM THE FLOOR: The uranium workers, on
3 that claim that the uranium workers --

4 CONGRESSMAN UDALL: That was part of this
5 legislation, the additional \$50,000 for the RECA
6 workers. I don't know if any of the departments brought
7 information on that, but let me just give a brief
8 comment on that and ask. So that people understand what

9 he's talking about as a part of this nuclear worker
10 legislation, additional compensation was given to people
11 that were exposed to radiation working in uranium mines
12 and people that were the down winders. The atomic tests
13 went off and the down winders had contracted cancers and
14 other solid tumors, those kinds of things.

15 In order to equalize -- when we passed this
16 legislation, we brought the compensation rates up to
17 equalize it 150,000. And that was something that I
18 think was needed to be done, and it was an attempt to be
19 really fair in this whole process. How many of those --
20 I don't know whether what you're asking is how many of
21 those have been paid and how much we've moved forward on
22 those. I would ask that the Department of Labor
23 Representative give you an idea on how we're doing on
24 those specific claims here in New Mexico if he has that
25 information or on nationwide basis.

72

1 MR. TURCIC: For the RECA claims, we have
2 received over 3,000 RECA claims and have paid a total of
3 about \$49 million, and that was since the beginning of
4 the program.

5 MR. YOUNG: Well, as Senator Bingaman
6 said, we're going to set down the formal phase of our
7 conversation today. People will be around for informal
8 conversations after that. I would like to recognize
9 some folks who have sent representatives as well.
10 Representative Lucky Barela, Janet Wallace. Senator
11 Dominici has sent people here. Rebecca Montoya is here,
12 I think, and we've had a message from former Energy
13 Secretary Bill Richardson, as well. So other people are

14 hearing this. Thank you very much, and that would
15 conclude our session. Thank you.

16 (Applause.)

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1 STATE OF NEW MEXICO)
2) ss.
3 COUNTY OF BERNALILLO)

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7 I, JUSTINE HANNAWEEKE, New Mexico Certified Court
8 Reporter No. 295, do hereby certify that I personally
9 took testimony given at said Public Hearing by machine
10 shorthand; that said testimony at said Public Hearing is
11 a true record of the testimony given; that I am neither
12 attorney nor counsel for, nor related to, or employed by
13 any of the parties to the action in which this Public
14 Hearing was taken, and that I am not relative or
15 employee of any attorney or counsel employed by parties
16 hereto or financially interested in the action.

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Justine Hannaweeke, NM CCR #295
License Expires: 12-31-02

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