TOWNHALL MEETING #4

ESPANOLA, NEW MEXICO

AUGUST 8TH, 7-9 PM

ESPANOLA SENIOR CITIZENS CENTER

735 VIETNAM VETERANS' MEMORIAL PARKWAY ROAD

ESPANOLA, NEW MEXICO 87532

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TRANSCRIPT LEGEND

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(7:10 p.m.)

MR. ELLIOTT: That's a very important thing that happened today. I didn't know if you were aware of that. DOE passed the rule and it's final now.

Okay. So here's the way we'd like to conduct this meeting this evening. I know that you all want to just get on and have your thoughts heard and maybe ask us questions, but we really need to give this presentation, and I'd ask you to keep your questions till the end of Ted's presentation so he can get through it. Maybe it'll answer your question. When he concludes his presentation, what I'd like you to do then is if you'd queue up behind the mikes and if you have questions about how this meeting is going to be -- I'll try to be your moderator and I'm here not to berate anybody or cut anybody off. I'd like to have everybody have a fair opportunity to have their time at the mike. Okay?

All right. Without any further ado, I think I'll turn it over to Ted Katz and we'll let him go through his presentation, then we'll open it up to the floor.

(Presentation by Ted Katz)

UNIDENTIFIED: May I ask a question?

MR. KATZ: Yes.

UNIDENTIFIED: If I understood you --

MR. ELLIOTT: Wait a minute -- you'll have to speak -- we need to capture your name for the record so --

MR. KATZ: Could you just speak into the microphone?

MR. ELLIOTT: -- you can ask a question now if you could stand at the mike and state your name and what your question is. And I'd like to keep our questions to the end of the presentation, but please --

UNIDENTIFIED: Well, the reason I wanted to ask now is so I don't lose the point, so I'll try to be very definite. You were making the point that certain levels of radiation predictably produce certain kinds of cancers, and yet I'm wondering how you fold in an individual body's susceptibilities to cancer, and then in one instance I know of an environment where there were multiple cancers but somewhere in -- well, all of the multiple -- there were six or seven people, all -- each one of the cancers were in a different set of the -- different location of the body.

MR. KATZ: Right, but we will --

MR. ELLIOTT: Your name -- could we have your name, please?

MS. BEAR: Oh, excuse me.

MR. ELLIOTT: I'm sorry.

MS. BEAR: Yeah, my name is Jo Bear.

(Presentation by Mr. Katz continued.)

MR. ELLIOTT: Let me interrupt Ted and let me answer the question my way. Ted answered it his way according to the way this rule is written. What really goes on here is we know, for example, that plutonium concentrates in the liver, the first cancer that you're going to see from a heavy dose of plutonium exposure is likely to be liver over any other cancer, so that's the cancer that we would target to set this benchmark from if we knew that the class was exposed to plutonium. If it was exposed to uranium, then we would be looking at probably bladder cancer or another type of cancer. Okay? So that's how we -- the lung for uranium, that's how we figure this.

UNIDENTIFIED: What about americium?

MR. ELLIOTT: Grady, you know what --

MR. CALHOUN: I would say probably -- americium is bone --

MR. ELLIOTT: (Inaudible)

MR. CALHOUN: But what we'll do -- here. What we'll do --

MR. ELLIOTT: This is Grady Calhoun. I didn't introduce Grady. Grady Calhoun is a health physicist on my staff and I'm going to direct technical questions to him. But we're going to -- can we get to this after Ted finishes his presentation? Okay? And we're not going to be able

to tell you every radionuclide and where it's going to go to and which cancer's going to be most likely caused by that tonight. That takes a little research on our part in some cases. These are the ones I can throw off the top of my head.

MR. CALHOUN: I can explain the process.

MR. ELLIOTT: Yeah, and he can explain the process. Okay?

MR. KATZ: Okay. And there's -- I'll be wrapping up quickly, so you won't have long to wait.

(Presentation by Mr. Katz continued.)

MR. KATZ: We're looking forward now to your comments and any questions you have, and I can clarify the things I said or things that I haven't said that you may have read in the rule and so on. Thank you.

(Applause)

MR. ELLIOTT: Thank you. I know Ted appreciates that applause 'cause this is the fourth time he's given it, but it's the first time he got applause after, so you guys didn't bring your lettuce and tomatoes tonight.

Let me expound upon that last point that Ted made. If you have cancer, you need to file a claim. And the main reason why you need to file a claim is not necessarily because we're trying to finalize this rule and you think you might fit into the Special

Exposure Cohort. But if you don't file and you need medical benefits, you're not going to get those until the day that you file. So if you hold off filing, that's when your medical benefits date will start. So the earlier you file, the better off you're going to be.

Okay. Now so if you want to queue up behind the mikes. There's two mikes here and anybody that's got a question or a comment, that's what we're here for. We'll try to answer your questions as best as we can.

MR. CALHOUN: You want me to go ahead and answer the americium question?

MR. ELLIOTT: You want us to answer this americium question that's on the table real quickly, we will do that, and then we'll get to your comment.

MR. CALHOUN: Okay. Basically what we were talking about is how we're going to use -- look at different radionuclides and how they will affect or cause different kinds of cancer preferentially. What we have at our disposal, one of the tools that we have, is some internal dose programs, and that's where this is going to make the biggest difference is internal dose, because what makes a difference is where they concentrate in the body and that's based on the chemical properties of the radioactive materials.

So what we'll do is we'll run the models on -- let's say americium, but let's -- we'll open that up for any radionuclide. Okay? Whatever one has been determined to be the one that we're looking at for the proposed petitioner or even in dose reconstruction. We'll run the model several different ways to see which of the organs is going to receive the biggest dose based on the amount of intake that was received during the work period or the occupation of the claimants. Then we'll run those doses in the IREP program to determine how likely that is to cause the specified cancer. So whichever is the lower cancers, takes the least amount of radiation, is the one that we'll use.

UNIDENTIFIED: (Inaudible)

MR. ELLIOTT: You need to go to the mike, please.

MR. GARCIA: My name is Jonathan Garcia and I had leukemia. I had to have a bone marrow transplant done in '94 and I worked with the plutonium at TA-54 and amer -- however that word is, I have a problem saying it -- and I got exposed to a lot of this stuff. We had spills where I talked to the engineer in charge of TA-54 at the time, 1980, and he says I picked up -- we don't know how much we picked up, you know. And from 1976 to 1980, we didn't have no monitors. We didn't have a place to wash. We ate inside TA-54. Who knows what we picked up, and I

don't know if you have any records on that. And also I --

MR. ELLIOTT: We probably don't.

MR. GARCIA: You probably don't.

MR. ELLIOTT: You and I have talked before, Mr. Garcia.

MR. GARCIA: Yeah, we have.

MR. ELLIOTT: We probably don't.

MR. GARCIA: And you know, like I was told 60 to 90 days I would get some kind of -- some kind of answer, and I haven't gotten nothing. You know, I don't know where I'm at right now. But you know, how much longer are we going to have to wait to get a final answer or some kind of thing, you know, or why -- why get us into this thing, you know. We just keep getting more nervous and more nervous, and more people keep dropping out because they're tired of the runaround that you keep giving us, you know. And as we go along, the rules keep changing and more are added.

MR. ELLIOTT: Well, can I speak to that?

MR. GARCIA: Go ahead.

MR. ELLIOTT: I don't believe we're giving you the runaround, first of all. We're not adding rules beyond what the law says has to be done here. We're just abiding by the law.

Yes, you and I have talked. I am frustrated, as

many of you are, about how fast or how slow this program is actually going. But we all have to keep in mind, I think, that it's only been one year. July 31st last year was when claims were starting to be received by the Department of Labor so that they could be acted upon. It takes a while for this government of ours to work. I am a taxpayer. I am a government employee. But I'm going to say that, it takes a while for us to do our business.

MR. GARCIA: What -- excuse me, but the -- what you guys got from the government -- I got sent some copies of a lot of the stuff and I don't see in there a lot of the times that I was contaminated. You know, I don't know if you got them. I didn't get no copies of that, ever, you know, and I know it happened 'cause I had nose wipes and everything else done, you know, and I don't have no copies of it so I don't know if you guys got them, you know, ever.

MR. ELLIOTT: Well, we haven't done your interview yet. Right?

MR. GARCIA: Right.

MR. ELLIOTT: And I'm not going to talk any more about your individual claim, but we need -- we need to get together on that and we'll talk away from the public here.

MR. GARCIA: Thank you.

MR. ELLIOTT: Thank you for your comments. Yes,

ma'am?

MS. GOTTS: My name is Jan Gotts and I have two questions. The first one is about reconstruction of dosage. If -- I don't understand what that's based on. Is it based -- for example, if someone worked in Nevada test site, is that based on the records that Revco* has or is that based on --

MR. ELLIOTT: Can't hear her?

UNIDENTIFIED: No.

MR. ELLIOTT: Can you step up to the mike a little bit closer and see if that helps -- and speak a little bit louder.

MS. GOTTS: Okay. Is this better?

MR. ELLIOTT: That's better.

MS. GOTTS: Okay. Two questions. The first one is reconstruction of dosage. For example, if someone worked at the Nevada test site, is the reconstruction of dosage based on the records that Revco has?

MR. ELLIOTT: It's --

MS. GOTTS: Or is it based on you all saying this is the job the person had, this is how much radiation they would have gotten based on this job.

MR. ELLIOTT: It's based on both. It's based on both of those things. It's based on the records that we ask for DOE to provide us, and whatever they provide us, we evaluate. And believe me, we

understand the problems in the history of DOE's dosimetry practices, when they didn't monitor, when they didn't use the right badge, when they told people park your badge here at the gate because we don't want to give you -- have anymore recorded dose for this quarter on there. We understand those things. We talk to you as a claimant and we try to get as much information from you about special situations that you know of that would have not even been captured in the record and we follow those up.

MS. GOTTS: When do you talk to the claimant?

MR. ELLIOTT: We schedule an interview with the claimant -- if you have a claim in with the Department of Labor and the Department of Labor sends it to NIOSH for dose reconstruction, we send you a letter or an e-mail that we've got it. The next letter you would receive with my signature on it will tell you we've requested DOE to provide records on the individual employee that the claim represents.

MS. GOTTS: Yes.

MR. ELLIOTT: Okay. The third letter you're going to get from me with my signature on it says to you we either have got the information and we've studied it and we want to schedule your interview, or we haven't got the information from DOE but we're going to go forward and schedule your interview. And we

do that at your convenience, whenever's the best time, place. If you have -- if you have cleared information that you need to share with us, I have a few cleared staff. We have a person that's got a clearance will come --

MS. GOTTS: I'm the survivor.

MR. ELLIOTT: -- and sit with -- well, but as a survivor, we would ask you who could we talk to that worked with your spouse or your husband or your father or whoever was the deceased individual, who could we talk to about their work situation and what they did and how they did it and can you direct us to somebody else. We go out to that person and we get an affidavit from them.

MS. GOTTS: Okay. These concern a company that closed in 1966, so lots of luck with that one.

MR. ELLIOTT: I understand.

MS. GOTTS: My second question had to do with what is the -- they used to talk about the legal dosage of radiation an employee could get in a period of one year that was considered a safe dosage. What is that?

MR. ELLIOTT: Well, that's the radiation protection mechanism. I'm going to let Grady answer that for you, but it -- that has no bearing on what we do for dose reconstruction. We don't use that kind of information. I'll let Grady give you a more formal

answer.

MR. CALHOUN: Okay. Right now the limit is -- it's five rem. That's what the limit is right now. But that can --

MS. GOTTS: What was it in the sixties?

MR. CALHOUN: I've got records back from Los Alamos that lists whole body dose limits of 15, 15 rem. So like Larry said, that -- we're not going to base it on that. We'll look at the dose received. We'll look at what other people in similar jobs got. We look at the technology of the day. A lot of times we get people with a lot of zeroes, and most of those reconstructions that I've got, they don't end up being zeroes because we have limits of detection that they may not have been able to detect, based on the technology of the time. So we end up being -- and I use the term conservative in that way and look at what was the limit of detection and are those zeroes really zeroes.

MR. ELLIOTT: The dose reconstructions are reviewed and signed off on. If you look at what was the recorded dose that was given to the employee by the Department of Energy, the dose that -- and compare that with the dose that we're reporting as the reconstructed dose, there's a big difference. Ours is much higher. Yes, ma'am?

MS. BEAR: Hello again, my name is Jo Bear. I have

two questions about the procedure. I have filed a claim and in this -- again, about dose reconstruction, in this pamphlet it states -- and in others, too -- that in most cases where an individual's radiation monitoring data is insufficient for complete dose reconstruction, OCAS will use information provided us from the claimant in a phone interview. You've been talking about that and somebody has mentioned that they've given you information. But my question -- one of my questions, I have two, is how do you use that information? Do you say yes, yes, I hear you, I hear you; or do you, like those of us who have stories to tell, think we're going to be taken -- our words are going to be taken with some credibility?

MR. ELLIOTT: Yes, we value your input. That's why we wanted to have in our rule this interaction with the claimant to do an interview. We made it a very interactive process with the claimant. We may talk to the claimant more than one time. Don't get me wrong. I know Grady's had several conversations with claimants, following up and saying yes, you told me about this and I went and tried to track that information down or tried to find so and so that you've identified for me and we can verify what you've said. As long as there is reasonableness to

what you report -- like what Mr. Garcia has reported to me, I have no doubt. The man's not blowing smoke at me. I'm sure that's exactly what he was exposed to, and there are no records for that. Sounds reasonable. I'm not going to say he's not telling the truth. We're going to support that.

MS. BEAR: And so how do you fold that -- and so --

MR. ELLIOTT: How do we use that?

MS. BEAR: How do you use that information?

MR. ELLIOTT: In a case like this where if we can identify what the radionuclides were that the individual was exposed to and we can get a sense of what the quantity was, then we can do source term analysis and we can do dose reconstruction on source term analysis, which is a claimant-favorable, claimant-friendly approach. We use different aspects of that to make it claimant-friendly and favorable.

If you say to me or to one of my dose reconstructionists, you know that the DOE boss that I had said he's not going to give me a badge today or for the next month because I've had too much dose, we've heard that enough, we're not going to question that. We're going to look at other people's badges that were monitored and we're going to use that information and take the highest dose that was shown on those badges. Okay? So we think

we're doing everything we can to be claimant-favorable in our dose reconstruction approach.

MS. BEAR: Well, I feel like -- well, my husband died ten or 11 years ago now and I've been involved in this process for a year, and it sometimes seems like a very long time.

MR. ELLIOTT: Yes, ma'am.

MS. BEAR: But -- but I -- most of the time I'm talking to people at work and I have confidence that you're doing an honest job and I appreciate the work that you're doing. But we're not there yet and so I still have questions, and another question I have is this. Another -- about the dose reconstruction, after the interview and -- it says here that if no additional -- after the interview and the dose reconstruction information has been looked at, if no additional information is provided, the claimant will be asked to complete an OCAS-1 form. This form certifies that there's no additional information to give NIOSH regarding the claim and that the claim record for dose reconstruction should be closed. Well, I frankly could never sign such a document because I have no way of knowing that all the information has been given.

MR. ELLIOTT: It's the information that you have to give. And what this form does is release us -- and it's you telling us, I think you've explained it to

me how you've done this, what we've done, the many different trails you went down trying to look for different information, and to me, I don't think that there's anything more I can give you -- NIOSH -- to do a better job. I'd like to see my claim moved on to the Department of Labor for a decision. That's what that form does.

MS. BEAR: But --

MR. ELLIOTT: If you don't sign that form, we can't move your claim on.

MS. BEAR: But what about the instance that Mr. -- that you --

MR. ELLIOTT: Mr. Katz.

MS. BEAR: -- Katz mentioned, that documents appear? Things you -- you didn't know something existed and then things appear. And when you sign this, are you precluding the --

MR. ELLIOTT: You're not signing any rights away in that regard. Okay? You're signing to say look, I understand what NIOSH has done in their dose reconstruction for my claim and I don't know that I can do anything further to help them move -- to do anything on this. I want to see it moved over to the Department of Labor for a decision. If they make a decision and it's to award, and later on we find additional information, that means -- that doesn't have any bearing on the claim that's

compensated.

If the claim was denied and we find additional information, the Department of Labor has a mechanism in their regulation that they operate under to reopen that claim and let us go back and -- and they'll send it back to NIOSH and they'll say you need to take this claim and do another dose reconstruction on it, given the information that's come to light. Okay?

MS. BEAR: Well, that's great, but I would like to see -- if I sign something, I'd like to have that sort of spelled out.

MR. ELLIOTT: Well, you need to see the OCAS-1 form. It spells that out --

MS. BEAR: It does? Okay.

MR. ELLIOTT: -- on the form, why you're signing and what the intent of the form is. It's for you to say you're done, NIOSH, I want you to move my claim over for a decision.

MS. BEAR: However, if more information is -- comes forward, then -- that bears on my case, if I'm denied, then the case would be --

MR. ELLIOTT: The Department --

MS. BEAR: -- reevaluated?

MR. ELLIOTT: That's right. The Department of Labor will reopen the case. They'll alert you that it's being reopened and they're asking us to do a dose

reconstruction.

MS. BEAR: Okay. Thanks.

MR. ELLIOTT: Uh-huh, thank you for your comments. Good questions, thank you.

Please, whoever's got -- there are mikes that are open.

MR. LEYBA: Good evening, Mr. Elliott. My name's Jerry Leyba, for the record. I'm here to represent (inaudible) University professional and technical employees, CWA 1663 out of California, Los Alamos National Laboratory, along with LAPOWS, Los Alamos Project on Worker Safety. I'm going to keep my talk a little bit short 'cause I want to let some of these other guys talk.

But basically what I want to emphasize is that Los Alamos National Laboratory should become a Special Exposure Cohort for all areas in Los Alamos National Laboratory. That includes all of the tech area of 54, 55, CMR, T-18, TA-21, all the SI, especially where these guys worked over at the hot dump in the early forties and fifties. As Jonathan pointed out, there's a lot of records that are missing. But also for the people that were security guards, custodial, RCT's, technicians, all the guys that worked with plutonium 238, 239, americium 241, cobalt 60, cesium 137, all the radioisotopes. And I think what should be taken into consideration also is the IREP model

that you folks are using because for the GI military, they used to use the one R where you folks are proposing to use 15 R, is what I understood. If that is the case, then none of these people will become eligible for compensation.

And I think in the statistics I've seen in the past in other states -- for example, Paducah, Kentucky -- they're being compensated at a higher level than what they are here in New Mexico. And also I think a lot of these guys have really been going through a lot of hell and there was good news for people like Mr. Ben Ortiz for -- under subtitle E for chemicals and other toxic substances, and also for the New Mexico workers compensation program, so that was good news for us and I think a lot of that came from our meeting that we had on May 11th.

But I really emphasize on NIOSH and the physicians panel that Los Alamos National Laboratory should become a Special Exposure Cohort.

MR. ELLIOTT: Thank you for your comment. I appreciate that and you certainly will have an opportunity to petition, as you see fit, once this rule is finalized.

I do, however, want to make a comment about your statement about 15 R versus one. That's a misunderstanding, a misconception that's been portrayed. It's unfortunate. That is not the case.

The NIOSH-IREP is claimant-friendly. What you're referring to is the use of a screening dose by the Veterans Affairs approach to evaluate claims for further development for dose reconstruction, not the same thing. It's apples and oranges, and I think you're going to find that in our NIOSH-IREP we are claimant-favorable and we are claimant-friendly and you're going to see people get their compensations where they are truly deserved.

MR. LEYBA: With your permission, I'd like to bring some other people that we would like to give testimony.

MR. ELLIOTT: I don't have any problem. The mikes are open. I'd just ask that everybody consider everybody else's opportunity to speak tonight. Okay?

MR. LEYBA: Phil Scofield.

MR. SCOFIELD: My name's Phil Scofield. I'm with the Los Alamos POWS. Just some brief things I want to bring up. In order for NIOSH to do a accurate dose reconstruction, NIOSH would need to know where a person worked, what types of materials and radiation were present, and at what levels. Also many of these jobs frequently required a person to move between rooms, areas or buildings daily or weekly. One would also need to know what type of processing was being done in an area or room, as

well as the quantities, materials present or those used. If this data is not available, then it must be assumed the maximum quantities were present or being handled.

The majority of eligible for cancer compensation are no longer around. And because of security concerns, most did not tell their spouses much about their job. And if they had, their widows are now elderly and many have forgotten a great deal.

Given these facts alone, it would preclude any possibility of an accurate dose reconstruction being done, so what resources are NIOSH and its contractors going to devote to tapping into the first-hand knowledge of expertise of a few surviving workers from these work environments?

MR. ELLIOTT: Was that a question for me?

MR. SCOFIELD: That last part is, yes.

MR. ELLIOTT: I appreciate your comments, sir. They're all very appropriate.

A dose reconstruction needs to be as accurate as the decision to either deny or award compensation. And where we want to be there is accurate to the point where we don't deny somebody that truly deserves to be compensated. And I think in our dose reconstruction process we'll be able to do that. We'll be able to show you that we've done that. Where we can't do dose reconstruction, as Ted has

mentioned, we're going to work with the person to petition for a Special Exposure Cohort for that class of workers.

MR. SCOFIELD: Well, I got another couple of points here about that. From documents released by DOE to IEER* it was shown that because of the way doses are calculated, some people have been assigned either zero or even a negative exposure. There are many cases of people having either very low or no exposure on record for a month or even a year, even though they worked with, around radioactive materials every day. This is a physical impossibility.

Further, LANL has warned us that extremity exposure records prior to 1997 are not available. DOE has further said that radiation doses from radioactive materials inhaled or ingested by workers were not calculated or included in workers' dose records until 1989.

Here's another point. For neutron gamma exposures as specified in the NIOSH-IREP, the doses will be entered at the level of the badge reading. DOE has admitted that most of the film badge readings are not correct. NIOSH has said that if values are unknown, they will use hypothetical ones, so where are we going to get these hypothetical ones?

MR. ELLIOTT: Question for me, I guess?

MR. SCOFIELD: Yeah.

MR. ELLIOTT: Okay. Well, first of all, you're wrong. The badge readings are not what is entered into the NIOSH-IREP.

MR. SCOFIELD: Okay.

MR. ELLIOTT: What we're talking about is a missed dose, which is a very critical component. Grady alluded to that earlier where, as you noted, they had different connotations that were used where the badge reading was below the limit of detection for the particular instrumentation of the badge. It might say MBA*, it might say red, it might say zero, it might say administrative dose -- all of those things were used. Okay? My health physicists know how to handle those. These are not hypothetical doses that we've come up with. There is literature -- and it's included in our rule on how we do dose reconstruction where we deal with zeroes, less than detection limit. Okay? And that is claimant-favorable, as well, because we take one-half the limit of detection. And what we're talking about here is a distribution of the results below the limit of detection. So we're taking that middle, most popular value, and that's the dose that gets entered.

Now if we're talking internal dose reconstruction, we have to look at the bioassay program techniques

and what the minimal detectable activity was, if there was one. If there's not one, then we go back to the models that Grady talked about earlier and we use the worst case scenario. I think that's all going to be favorable and I think you'll see that. Now I appreciate your questions. These are the kinds of questions that hold me accountable. Okay? Thank you.

MR. SCOFIELD: One other quick question. You talk about calculating what probable causation for a cancer. Now you're talking about internal doses where people ingested. What about say someone like leukemia where there's no record of them ingesting something but yet they had exposure to high gamma, high neutrons. How is this going to be handled?

MR. ELLIOTT: So that's an external dose reconstruction using gamma, and if there was any, if we have in the interview or if we have any incident reports that speak to an incident where there might have been an ingestion or inhalation of gamma-bearing radionuclide, we can factor that into the dose as well as the external dose reconstruction we do. Okay? Thank you for your comments.

MR. LEYBA: Our next speaker we'd like is Richard Espinosa.

MR. ESPINOSA: I'm Richard Espinosa with the sheet metal workers Local 49. I'd like to thank NIOSH for

coming out and the work that they're doing today -- Ted Katz, Larry Elliott. The thing that I'd like to speak about -- on is one of the things that we're noticing through the international -- through the sheet metal workers Local 49 is our members get older, they're not able to speak, their memories are lost and English has become their second language and they're unable to get their point out on this program. What's being done and what can be done for our survivors, as well as our elder members?

MR. ELLIOTT: We fully recognize that in our interview and interaction with the claimant, we need to take that into consideration -- the age and the health of the claimant. We've had interviews where a claimant couldn't hear over the phone so we worked it out with them where they brought in somebody to assist them in understanding what our questions were. We've sent our questions in advance. We've held multiple-time interviews where a claimant said look, I can only sit with you for half an hour. That's all I'm going to give you and you say it's going to take an hour to do this. We do it in as many sessions as they want to take to do that. If a claimant has difficulty hearing us over the phone or if they feel that they want to speak to us in Spanish, we've brought in a person who speaks Spanish and can do the interview in that other

language. Those are the kinds of things we're doing.

MR. ESPINOSA: As far as Los Alamos is concerned, we have a lot of -- building trades is what does the work and the maintenance work in Los Alamos. As far as the TLD's, I feel that they're biased. We have electricians working in a CMR pulling wires. On any given day they can be exposed to five or six different sources that aren't picked up by the TLD. How is that being addressed?

MR. ELLIOTT: That's also being addressed through the interview process where we get an understanding of what jobs you did, where you were, how many different buildings you worked in. We built a site profile of the site so we understand what radionuclides might have been in an existing building or a TA area or what have you. And my health physicists then look at that and say well, your badge would never have caught neutrons and you were in a neutron-exposed area, so we're going to factor that neutron dose that you got. We're going to use the worst case scenario in accounting for that dose. That's how we go about that.

MR. ESPINOSA: With -- the burden of proof is supposed to be NIOSH, DOE. During these interviews are they going to be -- are they being asked what they've been exposed to? As a building trades

member as a sheet metal worker, I'm there to do the maintenance work. I am there to provide my services to the Laboratory. I am not an expert, per se, on these emitters.

MR. ELLIOTT: You're right, the burden of proof -- the burden to prove, the burden to collect and the burden to do all this work is not on the claimant -- it shouldn't be on the claimant. The claimant has filed a claim. That should be pretty much the end on their behalf, and yes, they are asked do you know if you were exposed to plutonium, do you know if you were exposed to americium. If they don't know that, that's okay. But what we do need to hear from them is where did you work, because we go back to the site profile then and we match up where they say they worked with what known exposures we have that existed in that location, and that's how we do that dose reconstruction.

MR. ESPINOSA: Well, thank you again. As a lot of you have heard, I am on the Advisory Board for Radiation and Worker Health and they're -- the next meeting is in Cincinnati on the 15th -- 16th --

MR. ELLIOTT: It's next week, a week from today. A week from yesterday afternoon and today.

MR. ESPINOSA: Well, I'm getting ready for it, but also I'd like to -- in October, the next Advisory Board will be coming to Santa Fe -- is that right,

Larry?

MR. ELLIOTT: Well, the Board has tentatively blocked off dates. Whether or not -- we'll see next week what happens with those dates they blocked off. But yes, Rich has invited us to either come to Albuquerque, Santa Fe -- I don't know what -- where it's going to be, but if the Board meets in October or November, it's going to be out here, as I understand it.

MR. ESPINOSA: All right. And thank you again for the work that you guys have done.

MR. ELLIOTT: Thanks, Rich, I appreciate your nice comments.

MR. LEYBA: Larry, our next speaker -- Mr. Pablo Romero*.

MR. ROMERO: My name is Pablo Romero. I retired from the Lab eleven and a half years ago with 33 years -- 33 and a half years of service. I started out with the environmental radiation studies group. I worked with environmental radiation studies group for 14 years. I worked with the U.S. Geological people to begin with. We were doing studies -- many projects, but we were sampling Acid Canyon in Los Alamos, which was the effluent from -- as you know, that end of it. We did some works towards -- towards that end of Canyon and also for T-55 at the time.

I worked with a man by the name of William D. Friedeman, passed away two years ago. I gave the eulogy at his funeral. But he died of cancer. But anyway, at the time -- we didn't really know what we were being exposed to. We collected all kinds of samples of soil, water, vegetation, snow, rain, whatever. We just sampled -- at that time it was -- they were doing above-ground testing and so we knew when weapons were exploded by the United States, by China and by Russia 'cause eventually we could sample that and we knew that -- I wasn't really prepared to talk, but -- I didn't know what this meeting was going to be about, really, and I'm glad to see that -- what it is about.

But I worked as -- after 14 years I transferred and I worked with HSE-1. I worked within H division all the years that I worked for the Lab, but I moved around some. And -- but anyway, I went to work as a monitor at -- health physics surveyor at DP West in 1971 where the technology wasn't as great as it was when we moved to TA-55. I worked as a monitor for a while and then I was appointed to a A-303 program, which dealt with research and development towards TA-55. We did studies of how -- we generated fluorescein in an area and then we found how it would transfer and how it would reach a sample head over there or over there or whatever, so we did

those studies.

We did studies of dissolution of plutonium in lung simulant, and we did some other studies towards TA-55 work. I was a health protection technician throughout TA-55 for a period of time. We worked with -- throughout the plant with americium, plutonium 239, plutonium 238 and even neptunium. I did some work with that, too. And I retired as a supervisor. My last years I worked as a supervisor of personnel in health physics.

But I've attended all except one meeting that has been held here and -- we were out of state at the time, but anyway, it seems to me that -- that years ago when all this millions of dollars were -- were -- by Congress, approved by Congress and -- but then I wonder what -- if the -- if being a government thing, if it doesn't go to administration? Seems like the funds go to administration. I know -- I didn't come here to make enemies, but I believe that we who worked with radioactive materials at Los Alamos were under-paid. And I am glad to see that today the people who I worked with and who are doing the work that I did are at least getting more money and technology's better. Exposure, I am sure, is down from what it was when I was working there because of stringent rules.

You know, most of the people who -- from -- here

from New Mexico I am sure are like -- I started working when I was 12 years old for 20¢ an hour in -- uncle ranch, cutting grass, raking the driveway, bringing in the wood to the fireplace and stuff like that. I made $36 that year. And my mom was my banker and at the end of the summer, we went to Santa Fe and bought my Levis, my shoes and outfitted me for school. But I remember my dad telling me okay, you accepted a job for 20¢ an hour, but you work -- as you know, you were earning $1 an hour. In other words -- and I've always -- did -- did that. I -- and I'm sure most of us, our people, are that way. They -- 'cause we hire good people. And I know that the people that I -- that are working within our group were always good -- good workers. So I believe that we were all under-paid for the work that we did. I thank you.

MR. ELLIOTT: Thank you for your comments. Do we have somebody on this side of the room who wants to speak? I know that these guys have got a queue here, but I want to allow an opportunity -- ample opportunity across the audience here.

MS. BARBOA: Hello. My name is Margaret Barboa and I'm here for my father, Willie Barreras. He died about a year ago, and he worked at the Labs for many years. As I was growing up, he started working there a very healthy man. And as he worked through

the years, he progressively got sicker and sicker. They didn't know what was wrong. He was somebody that would go square dancing and fishing and take us all camping and on trips. And then he ended up not able to talk, not able to walk. His muscles were destroyed on his arms and his legs, very poor condition. He has a few of your cancers that you have listed here.

He worked on top secret sections in the Lab. He worked in plumbing, where they did waste water flow back preventers. He had many -- a few accidents, I would say, where he came home in paper clothes. They buried his truck and all his tools and all his personal belongings. How do I prove this? I mean I've got medical documentation, but when I call the offices, if you don't have I guess -- like when you go into the computer -- special passwords or people that you know you know and how to talk to -- I'm new. I worked in a whole different sector, and I've been trying to get this done for my mother and my family, and it's -- we've been to all the meetings. It's just a little bit rough because I feel like he had a specialized work position because he was in management and he had to go where some of his other workers could not go. There were, as far as I can tell, no radiation tags at the time 'cause he started in the seventies.

I have not gotten any information back about what he was exposed to other than other people that I have talked to, and they've written letters on his behalf. So I'm just kind of like trying to get through this and filling out paperwork and a lot of personal information that I've been sending in the mail about him to different departments. And I thank you for coming and helping us with all this and I feel like -- for one thing, can a person get a cancer from one really bad accident? Maybe he wasn't, you know, treated or every day exposed to a radiation factor because he went to so many different buildings, but I know he had one or two for sure really bad radiation exposure accidents that he came home in paper clothes. So can -- can that cause his one cancer that could make him eligible for this kind of --

MR. ELLIOTT: Yes. Yes, it can.

MS. BARBOA: Okay.

MR. ELLIOTT: Chronic exposure can cause it, and what you're talking about is an acute exposure, a one-time incident, two-time incidents. Maybe it was different exposures. But yes, cancer can happen from both types of exposure.

MS. BARBOA: Okay, 'cause I --

MR. ELLIOTT: Where a person may work at the same job for ten years and had exposure every day but it

was real low level --

MS. BARBOA: Right.

MR. ELLIOTT: -- and then but another person had a situation like you're talking about your own father's situation where -- we won't even talk about what he might have had on a daily exposure, but two times out of his working history he had some unusual event where they sent him home --

MS. BARBOA: Yes.

MR. ELLIOTT: -- probably washed him down and scrubbed him real hard --

MS. BARBOA: They did.

MR. ELLIOTT: -- and then sent him home in paper.

MS. BARBOA: They wouldn't even let him bring his wallet, his watch. His truck got buried in a big hole, all his tools -- and I know this for a fact, but how do I prove this for a fact?

MR. ELLIOTT: You don't have to prove it. The burden's not on you. Okay?

MS. BARBOA: Okay. Well --

MR. ELLIOTT: You've done all you needed to do and when the time comes and we do the interview, you just need to lay all this out. That's the kind of information that we need to hear about because what happens then, like Grady will take that information and say I need to go find out if DOE's got an incident report on the accident. If not, then I'm

going to find somebody that has -- that verifies your statement, that worked with your father or knew your father to say oh, yeah, I remember when they sent him home. Happened more than they -- than his family knows about. That's what we need. That's what we get when we do the interview with the claimant. That's the good information we're seeking, the stuff we can't find in the records. There's records we can't even find. That's why we need to talk to you.

MS. BARBOA: 'Cause like even his medical doctors, when I go back and I try to prove that he had these cancers -- because you know, I have certain pieces of documentation, but they said after eight years, all of that was thrown out. So I know he had it, but that's another thing, you know. Proving it is another thing, too. But --

MR. ELLIOTT: Thank you for your comments.

MS. BARBOA: Thank you.

MR. ELLIOTT: Appreciate your comments. They're very well-placed.

MS. BARBOA: Thanks for coming and helping all of us out, too. We appreciate that.

MR. ELLIOTT: Yes, sir?

MR. RAMSEY: Good evening. My name is Richard Ramsey, former -- former worker at Los Alamos. As -- I started in '83 and the safety problems up there

was terrible, so I started fighting those right away. I worked with -- at TA-54 with Jonathan and several other people, and I liked what you said a while ago, Larry, about profiling an area. This is what I've been talking about for years.

But you speak about profiling the areas. I'd just like to add that you would profile the workers that worked there. For an example, with Jonathan, myself and several other people up there, like TA-54, Jonathan's got leukemia. Another guy has cancer of the liver. Another one has cancer of the feet and in the chest. Another -- couple of them that delivered stuff into TA-54 died of cancer. I have an autoimmune disease, which I don't know what -- you know, what's the cause of it, but I'm one of the last persons that worked in there, so you can see that that's -- that's sort of bothering me, wondering what's coming down the pike, you know.

Oh, yes, the other question I have is if we reach a special cohort status, does that mean the other sicknesses that come up like asbestos -- asbestosis and all this, what does that do to that?

MR. ELLIOTT: It doesn't do anything to that. If you have asbestosis or you have some other occupational-related disease, that would be covered by your state plan. That's where that has to go. You have to file a claim with the state and that's

what these DOE physician panels are going to help you do. They're going to sit and review your state-based claims and they're going to make a judgment as to whether or not your work experience and the environment and the exposure you had more than likely contributed to that health outcome, whatever that health outcome may be. That's the value of that.

If you're in -- the limitation of the Special Exposure Cohort -- let me make sure everybody's clear on this. Ted mentioned this, but it gets lost sometimes. If you're qualified for the Special Exposure Cohort like these folks are in Paducah -- okay -- if they have one of the 22 cancers, then they're going to get their compensation and they don't have to have a dose reconstruction. But if they don't have one of those 22 cancers, you have to ask yourself what happens to them now. If they have prostate cancer, if they have skin cancer, if they have cancer of the testes -- I don't think testes are included in that 22 we showed you -- they're out of luck. You're out of luck if you're in the Special Exposure Cohort. People in Paducah, we're doing dose reconstruction on them if they have prostate cancer, if they have skin cancer. Why? Because we can do dose reconstruction for those sites that Congress put into the Special Exposure

Cohort. But if you're added as a class of workers, from this point on what happens is to be added has to be verified that we can't do dose reconstruction. And so if you come up with prostate cancer at that point, we've already said we can't do a dose reconstruction so you're not -- you have no remedy. That's the limitation of getting added to the Special Exposure Cohort at this time.

MR. RAMSEY: Well, that's what I thought I heard you say a while ago, or understood you to say. So is it better to be in the special cohort or not be in it?

MR. ELLIOTT: It's better to be in the Special Exposure Cohort if you have one of those 22 cancers. But if you have -- if you have a cancer other than those 22, I'm sorry, you're out -- you're out cold.

MR. RAMSEY: So in other words --

MR. ELLIOTT: Unless Congress decides to fix that problem.

MR. RAMSEY: So in other words, one or two people, if they decide that they want to petition to be in this special cohort and maybe the other person that doesn't have that cancer that's in there doesn't want to be, it's still going to affect him.

MR. ELLIOTT: It's going to affect -- yes.

MR. RAMSEY: In other words, he's going to be out of luck.

MR. ELLIOTT: That's right. You don't have to have

cancer to petition to get into the Special Exposure Cohort. You can say to yourselves -- this gentleman here said it, I've heard Mr. Garcia say it, I've heard Phil say it, Paul say it, you know, we want to get as many people in the Special Exposure Cohort as we can. Well, right now we don't know what the distribution of cancers are going to be for a class that's added, but what we do know is that once we add a class, 22 is all you can qualify for, 22 at this point in time, unless Congress decides to fix it. Okay? So you need to be -- if you want in a class and you've got one of those 22 cancers, it's going to be in your benefit to be in a class and get in the Special Exposure Cohort.

MR. RAMSEY: If you have a different type of cancer, then what do you?

MR. ELLIOTT: If you have a different type -- as I mentioned, if you have skin or prostate cancer, which are not included in that 22, you have no recourse. You have no remedy.

MR. RAMSEY: But just --

MR. KATZ: Let me add one point to that, which I think might get at your concern a bit. If you don't have one of those 22 cancers, someone else petitions for the class, that class still cannot be added if we can do those reconstructions. So they may petition for the class, but if we can do dose

reconstructions, it won't be added to the -- that class won't be added to the cohort and we'll end up doing dose reconstructions for everyone in that class, so you won't be left out in the cold. Do you understand?

MR. RAMSEY: Yes.

MR. KATZ: It's only in the circumstance where we can't do dose reconstruction. So in a sense, it's not a real worry because -- because if we can't do dose reconstructions, we can't. Whether someone petitions now or later, we will find out when we get -- if you were to submit a claim, we would find out whether we can do dose reconstruction, regardless of what your cancer is, and that's the point where you then consider the Special Exposure Cohort.

MR. RAMSEY: Thanks again for coming. Appreciate all your hard work.

MR. ELLIOTT: Thank you for your comments. Yes, sir? Can I move that up there for you? Let me...

(Pause)

MR. NEWTON: (Inaudible)

MR. ELLIOTT: Well, I appreciate your comments. And what Mr. Newton was speaking about so that we get it on the record, he talked about his experience working at the Lab and some of his acquaintances who had their trucks I guess contaminated and I guess they took them home with them and possibly got their

house contaminated, as well. So I thank you for those comments.

Somebody else?

MR. JOHNSON: I've been listening to all of this and here's the point I'd like to make. You're qualifying these people on primarily dosimetry. All right. I worked the same places Jonathan did. I worked the same places Ms. Bear's husband did and some of them. These people were exposed to multiple forms of radiation and airborne items. Now if you're only going to base it on dosimetry without checking into the complete work history, this is just going to -- this is going to hurt a lot of people. I'm a victim of leukemia. (Inaudible) and various other things. I worked at all the areas that these people have and I know for a fact that you're not addressing the high level magnetic fields of radiation that (inaudible). And during the periods at which I worked there in the same areas as Mr. Bear, we had such high (inaudible) that I was (inaudible) as we could and sometimes the half-lives hadn't come down to the levels they should have (inaudible) because (inaudible) so high. (Inaudible) the exhaust stack at that area was putting out water in the form of mist (inaudible). We were exposed, saturated (inaudible) on a daily basis and an hourly basis and there was no

urinalysis performed and there was no (inaudible) measurements taken in the place to cover other forms of exposures we had. And I hope you're not going to be (inaudible) this isn't taken into consideration.

MR. ELLIOTT: Thank you for your comments, and let me react to those. We're not basing our radiation dose reconstruction on dosimetry. We're basing it on radiation in the work history that we collect from an individual. We are required --

UNIDENTIFIED: (Inaudible)

MR. ELLIOTT: I understand that. Radiated water is an exposure that we're aware of and we account for that in our dose reconstruction process. But we're required by law to deal with radiation and ionizing radiation, and so that's why we cannot look at the other chemical exposures that might have occurred to a worker when they were in a radiation-exposed environment. We're only -- we're required by law, unfortunately, to deal only with radiation, not looking at non-ionizing radiation like in the (inaudible) project, and that's unfortunate.

MR. JOHNSON: I agree with you, that is unfortunate because of the fact that you're -- these are combined radiations.

MR. ELLIOTT: I understand that, but we're required by law to focus on ionizing radiation.

UNIDENTIFIED: (Inaudible)

MR. KATZ: Can I just add one thing to this and that is, again going back to this state program that you just heard about that the rules (inaudible) those (inaudible) will be considering both radiation and chemical exposures, mixed conditions, mixed exposures like that, so they will be able to take into account situations like that. It's just this Federal program will not be able to.

MR. ELLIOTT: Yes, sir?

MR. ROMERO: My name is Raymondo Romero. I've got a couple of questions for you. I'd like to know what a lifetime dose of radiation is.

MR. ELLIOTT: Grady, you want to answer that question?

MR. CALHOUN: I'm not sure of your question. What a lifetime --

MR. ROMERO: Yes.

MR. CALHOUN: I don't understand.

MR. ROMERO: Well, that's what the lab told me when I was here a few years back, that I had a lifetime dose of radiation that I got in a couple of hours machining a piece of plutonium.

MR. CALHOUN: Okay. There's a couple of different scenarios where they could tell you something like that. There's administrative limits that people put in place and those can be based on weekly, annual, lifetime dose. The only dose that I'm aware of that

was in place was a maximum permissible dose like an annual basis. There used to be a rule where, based on your age, you were only allowed to get so many rem for -- for how old you were. That could be it. It could be a maximum permissible concentration. If it's plutonium, it's going to be an internal uptake. That's going to be your hazard there and it's probably the maximum annual concentration to allow. You got it right now. But I don't know, not having talked to those people, I don't know what --

MR. ROMERO: I contacted the lab on this, and they will not give me the information as far as a lifetime dose of radiation, but they -- it's on my records that I had a lifetime dose of radiation, and that happened in a period of two hours.

MR. CALHOUN: I'd have to look at those to see -- to make --

MR. ROMERO: But they won't -- they won't tell me what they mean by a lifetime dose.

MR. CALHOUN: I don't know, either.

MR. ROMERO: Okay. And also -- well, that's a -- different types of dosage, but I don't have a cancer and I didn't -- and I do have a lifetime dose of radiation. I'm not saying -- and there's a lot of people like myself that are walking the streets and probably some in this room that are radioactive and don't have a cancer, but that doesn't mean that

they're not going to get cancer down the road, like myself. I'm glad that I don't have cancer, but I do have a problem. I have a breathing problem. My breathing is less than half, and that was caused by this dose of radiation, and that's according to the Johns Hopkins Hospital records, and they have the records and I've got it right here. The limitation as to the amount of air that you take one breath, my limitation is half -- less than half of air going in and air coming out. But yet due to the fact that I don't have a cancer, I can't claim -- I'm not entitled -- according to the lab, I'm not entitled to any money whatsoever because the fact that I don't have a cancer. But yet I'm radioactive. And there's a lot of people like myself that worked with me. A lot of them do have cancer and I'm glad I don't, but that doesn't mean I'm not going to get cancer in the future, and that doesn't mean that these other people aren't going to get cancer, also. Thank you.

MR. ELLIOTT: Thank you for your comment. We appreciate that.

MR. LAVATO: I have a question.

MR. ELLIOTT: Would you please stay at the mike?

MR. LAVATO: My name is Joe Lavato and I guess I'm a newcomer because I just barely got the results this morning from the examination that I was given

through the John Hopkins University. I kept calling because I had had a letter come in and it said that July 31st was the last time or time allowed for you to put in a claim, so when I called this office here in Espanola, they told me well, if you don't have the results to compare with the ones your doctor has, it's not your fault so the time should be extended. Does that sound right?

MR. ELLIOTT: Well, I would refer that back to the resource center. I think you can file a claim at any point in time that you find out that you -- your health has been impaired, you've got a cancer, you've got chronic beryllium disease or beryllium sensitivity that's been diagnosed or you have silicosis. That's what you can claim under the Federal program. Or you may file a claim under the state program.

MR. LAVATO: Well, I'm having my doctor --

MR. ELLIOTT: July 31st of last year is the start date --

MR. LAVATO: Oh.

MR. ELLIOTT: -- of when you could submit claims.

MR. LAVATO: Oh, I see.

MR. ELLIOTT: From that point on, any time a person finds out they have cancer, beryllium disease or silicosis, they should file a claim immediately.

MR. LAVATO: Well, I want my doctor to compare what

you people's report was and his 'cause we know there's a problem there. Okay? And I don't want to get blinded because there's money there. I'd rather have my health. Like that old boy said, he doesn't have cancer. He's lucky if he doesn't.

But then something else that came on that -- some of that correspondence was they want you to put in a claim, go to the Department of Labor and hire you a lawyer. Why do you have to hire a lawyer and give them a third of whatever you would have coming --

MR. ELLIOTT: You don't have to hire a lawyer.

MR. LAVATO: Well, that's what the correspondence said.

MR. ELLIOTT: Well, I don't know about that correspondence. It wasn't from me --

MR. LAVATO: I don't have it with me, but I wish I did. But it --

MR. ELLIOTT: No, in this program you don't -- in the Federal program you don't have to have a lawyer.

MR. LAVATO: Well, I'm glad --

MR. ELLIOTT: It's your option.

MR. LAVATO: Well, I'm glad to hear that, and those are --

MR. ELLIOTT: And if you do have a lawyer, it's prescribed in the Act how much they're limited to charging you.

MR. LAVATO: Uh-huh. Well, and I think my doctor

said I'd have to have a complete appointment with him, and it'll be the 19th of this month before he could even set down with me and study what you people reported and what he has.

MR. ELLIOTT: Not me. It wasn't --

MR. LAVATO: Well, I mean -- the John Hopkins University.

MR. ELLIOTT: Well, you're talking about the former workers medical screening program that's down here in Los Alamos.

MR. LAVATO: Yeah, that's it. That's the only questions I had and --

MR. ELLIOTT: Okay.

MR. LAVATO: -- I'm glad you cleared them up for me. Thank you.

MR. ELLIOTT: I'm glad to have helped, but I don't think I did.

Who's up next?

MR. CONLEY: Mike Conley.

MR. ELLIOTT: Okay.

MR. CONLEY: My name is Mike Conley and I got involved with this program on behalf of my stepfather, who's a long-time laboratory worker. I just have some questions tonight and I don't know if you'll be able to answer them or possibly some of the -- a couple of the gentlemen from the Department of Labor.

First of all, do you know of a reason why Congress basically passed this program identifying gas diffusion sites?

MR. ELLIOTT: The Special Exposure Cohort, I do not. I can't understand or explain that. That's Congress's action.

MR. CONLEY: It seems to me that Los Alamos and I'm sure other sites had probably just as much likelihood of high levels of contamination and work with radiation and radiation products.

The other question that I have for you is that I got involved with NIOSH fairly early on in this program because my stepfather's claim was accelerated to that point and back in early November, I believe it was, I was told that you all are trying to put together a process that you hope to have in place by early April in terms of dealing with these dose reconstructions and the information you were getting back from the laboratories. My question would be, do you have that process in place at this time?

MR. ELLIOTT: We are -- when we passed our other two rules on dose reconstruction methodology and probability of causation in May -- May 2nd of this year, that enabled us to finish dose reconstructions and send them over to the Department of Labor for a decision. I have a very limited staff, and this is getting back to your question, how much time is it

taking to do all these claims that come to NIOSH. I have a limited staff and we are in the last throes of finalizing a contract that will bring the amount of resources that we need to process the number of claims that we have. I'm hopeful that if -- we're at the best and final stage of negotiation -- to award this contract in the next six weeks. I hope to see that in place and we'll start seeing a lot more activity in an effort to turn claims around. Now that's where we're at as far as bringing in enough resources to bear.

But let me also say this. I understand the frustration. I understand -- I take a number of calls every day myself. My staff -- my secretary can tell you how many calls she reacts to. So we know what your concerns and your frustrations are about the time taking to work through this whole process of compensation.

But I would ask you to consider this. This is a new program. It does take the government a little while to put it in place. I'm trying to do the best I can for you. My staff is trying to do the best they can for you. And if you look at other compensation programs, it takes about a year. For a program like the Radiation Exposure Compensation Act which compensates uranium miners, it takes about a year for them to process a claim through their system,

and they're ten years old. Okay? If we look at the Atomic Veterans Compensation Act that compensates the atomic veterans who walked into the Nevada test site as guinea pigs, it takes them about 14 months in some cases to get a decision on their claim. So I just use that to give you a point of comparison. Do I like the fact that it's taking us as long as it's taking us to do dose reconstructions? I do not. I know it's frustrating to you as a claimant. It's frustrating to me because my staff is dealing with a lot of frustrated folks. But we're trying to do our level best and I'd just ask you to keep in mind the time it takes to put these programs together and do it right so that we're being fair and consistent to everybody. I'm sorry, I didn't want to steal your thunder --

MR. CONLEY: That's okay.

MR. ELLIOTT: -- but I wanted to get that out there.

MR. CONLEY: And I certainly appreciate that. I'm not trying to continue to put you on the spot here, but one further question --

MR. ELLIOTT: That's what they pay me for.

MR. CONLEY: One further question is that, to the best of your knowledge, have any reconstructions occurred from claims that were initiated here or from work that occurred in Los Alamos?

MR. ELLIOTT: Yes. Yes, there are claims underway -

- how many do you think, Grady, three or four right now that we --

MR. CALHOUN: Los Alamos?

MR. ELLIOTT: They're drafted and they're in the final -- final stages. Within the next few weeks you should --

UNIDENTIFIED: (Inaudible)

MR. ELLIOTT: I'm not sure exactly. Just from Los Alamos. I'm not sure exactly when those are going to surface to DOL for a decision. You won't hear about them until the claimants come forward and say I got my money, or hey, I didn't get my money. But it's a process and we have to work through that process. But we're finalizing I know three or four that are representative -- here in Los Alamos.

MR. CONLEY: Okay. And I guess based on that, am I correct in understanding that essentially Department of Labor has not received any reconstructions yet from --

MR. ELLIOTT: No, they have.

MR. CONLEY: -- NIOSH?

MR. ELLIOTT: They've received about seven -- six or seven maybe -- half a dozen.

MR. CONLEY: From Los Alamos?

MR. ELLIOTT: No, not from Los Alamos.

MR. CONLEY: Okay.

MR. ELLIOTT: Not from Los Alamos.

MR. CONLEY: Okay.

MR. ELLIOTT: I don't believe we've sent any over to DOL yet from Los Alamos.

MR. CONLEY: Okay. And that's all I've got, but I'd also like to thank you all for coming out and basically helping us to understand this program that much more.

MR. ELLIOTT: I appreciate your comments, appreciate your thoughts. Yes, Mr. Scofield?

MR. SCOFIELD: Larry and Ted, I do appreciate you coming down here. I know it's been quite a trip for you guys. Just one quick question here. What is the definition under NIOSH for reasonable dose estimate? What is your legal definition?

MR. ELLIOTT: Within the Special Exposure Cohort?

MR. SCOFIELD: No, if you're doing a dose reconstruction. What would you consider one?

MR. ELLIOTT: A reasonable dose estimate?

MR. SCOFIELD: Yeah, in other words, what would you consider, you know, reasonable from the standpoint of someone's had one done, you feel comfortable with it. Do you have a criteria?

UNIDENTIFIED: What is reasonable?

MR. ELLIOTT: Reasonable dose estimate. I don't know where this is coming from because we conduct a dose reconstruction, and when we feel that we've done the best job that we can and it is complete in

our mind, we work with the claimant to get their understanding of what we've done. And at that point, if the claimant is satisfied and he signed the OCAS-1 form, it goes over to Labor. So this issue of reasonable dose estimates --

MR. SCOFIELD: Well, then I guess that would be a reasonable dose.

MR. ELLIOTT: -- I don't know what you're talking about there because when we do a dose reconstruction we do it to our fullest ability and our fullest confidence, and we work with the claimant to that end. Okay? And if that's a reasonable dose estimate in your opinion, then that must be a reasonable dose estimate. But I don't know -- I don't know how to define it any other way because for us to define something, it has to be written in our regulations. Okay? And we don't specify reasonable dose estimate in our -- that I know of --

MR. SCOFIELD: You're a smart man. Okay, I do appreciate that -- your description there because --

MR. ELLIOTT: It was a trick question, was it?

MR. SCOFIELD: No, it's not a trick question. It was -- honestly, I was just wondering how you come to what you feel is that level, and you answered that question for me.

MR. ELLIOTT: My health physicists do the best job they can. My health physicists are potential

claimants themselves, every darned one of them. Okay? You think they're going to do a shoddy job? Because in the future they may face a dose reconstruction themselves. These guys are setting the groundwork for how this is going to be done, and I think they want it done right, believe me. I know they have meetings among themselves and talk about these dose reconstructions before they ever come to my desk. I was talking to Grady about one yesterday and Grady was filling me in on all the dialogue that's occurred between himself and two other health physicists on my staff. And the other two health physicists said to Grady, Grady, we think you ought to take one more step and go look in this direction over here. It might add some dose to this claim. And Grady said okay, I'll go do that. I think that's a reasonable dose estimate.

MR. SCOFIELD: Okay. One more quick question. A number of people like myself have filed a claim, even though I don't have a cancer, in order to get the paperwork. Seems to be the only way to get it out of LANL.

MR. ELLIOTT: Yeah.

MR. SCOFIELD: Say five years, ten years down the road I develop one of the cancers. Can my case then be reopened or is it shut permanently?

MR. ELLIOTT: If you file a claim and you -- so DOL

got your claim and they looked at your claim and they said okay, Mr. Scofield says he worked so many years at LANL and we can get that verified at DOE, but wait a minute, he doesn't have cancer and he doesn't report he's been diagnosed with berylliosis and he doesn't report that he has silicosis, so they deny your claim.

MR. SCOFIELD: Correct.

MR. ELLIOTT: Okay. So -- and I'm sure Bob's going to correct me if I'm wrong -- they send you a letter that says your claim is denied for the reason the you've not had a diagnosable covered illness. Refile if you ever do.

MR. SCOFIELD: Okay, that's what I wanted to hear from you.

MR. ELLIOTT: So you refile. You refile as soon as you get a doctor's diagnosis because that's the day you want your medical benefits to start when they decide in your favor.

MR. SCOFIELD: Okay. I'd like to just tell the audience, remind them one thing. The Congress has made it abundantly clear that those of you who have been -- those who have been killed or those who've been injured deserve compensation, and I would like to thank NIOSH for coming here very much. Thank you.

MR. ELLIOTT: Thank you.

MR. CASADOS: Yes, my name is Filemon Casados. I have a paper or a letter, rather, that I forwarded to the editor of the Santa Fe *New Mexican*. I would like to present this to you people.

UNIDENTIFIED: Have it read into the record.

MR. CASADOS: I would like it to become part of the record for tonight. If you would care to read that to the people over here, I would appreciate it.

MR. ELLIOTT: Okay. I'll let Ted read it.

MR. KATZ: You want me to read the whole article?

MR. CASADOS: The article on the left-hand side --

MR. KATZ: Let me find it. Okay, you wrote this, obviously?

MR. CASADOS: That's right.

MR. KATZ: Okay. So this is an overall title *Time for country to repay nuclear workers*. (Reading) I am writing this letter on behalf of all the nuclear workers throughout the United States who were loyal and patriotic soldiers of the Cold War, who performed their duties and did their part in providing this nation with the instruments necessary for its defense while employed at many of our country's nuclear laboratories.

We read daily in papers that our government is spending billions of dollars in foreign aid. I believe that America's aid should start here at home by providing the necessary assistance to all of our

nuclear workers.

Please remember that these workers were loyal and patriotic soldiers of the Cold War, performing their duties for our nation's security. It is about time these Americans get the medical and financial assistance they deserve. Hopefully the claims from the Los Alamos laboratory will receive the same kind of attention as those submitted in Kentucky and other parts of this country.

We did our part by providing our government with the tools and instruments needed for the security and defense of our great nation. It is time the United States government did its part in supporting us.

Filemon Casados, Santa Fe.

(Applause)

MR. CASADOS: Thank you very much. I worked up at Los Alamos for 35 years. I retired back in 1990. I was somehow presented with a letter in the year 2000 indicating that I was entitled to get myself re-examined or get a physical examination at John Hopkins over in Espanola, which I did. I took that test and two or three weeks later the results came back to where they found that I was contaminated with beryllium, sensitized, and they gave me a record as to what all they found with me, medically speaking. But the idea was that I was supposed to report for another medical examination, which I did.

I never got back the results on that second one, but then I took a third one not too awful long ago and this third one that I took was only after I had pursued the help of Mr. Floyd Archiletta* from the Department of Labor here in Espanola and his co-partner, David. They helped me submit the letter, the claim, that went on to Denver.

Denver took quick action on that and presented me with directions as to how to guide myself to pursue the claim in its entirety. I've got these people, Floyd, Mr. Bob Monsenadas* at a meeting that was held over here in Espanola where Jeff Bingaman and Udall and I believe -- who was the Secretary of Labor there?

UNIDENTIFIED: Beverly Cook?

MR. CASADOS: Was it Beverly Cook that was there?

UNIDENTIFIED: Yeah.

MR. CASADOS: Beverly Cook was there and I stood up and spoke. I more or less presented them with the same topic of conversation that I have in that letter, but I don't know what action they're going to take in regards to supporting the claims that most of us people over here have submitted. I in turn have submitted a claim which has reached the highest level, I guess, that it can go because I have been recognized as being sensitized with beryllium and my case has been up to Denver and has

been given the approval of the final adjudication board where my case, at this particular point in time, has been solved or come to a point where I can find some good results as to the idea of being provided medical attention and expenses paid one way or the other and to pursue this route until maybe something else develops. Since I do have this beryllium sensitivity, I know that it's not going to go away, but the condition will be there forever. Anyhow, what I want to do at this particular point in time is that I want to tell all the people over here that there is light at the end of the tunnel. It just takes a little bit of patience and perseverance. And what I'd like to do at this particular point in time is thank the people that helped me pursue this matter to this point, and they are Mr. Ken Silvers, for one, Mr. Ben Ortiz over here in the back, Jesse over here, Scofield and where's Richard?

UNIDENTIFIED: Right here.

MR. CASADOS: And Richard, and also Mr. Bob Monsenadas, who was very instrumental in guiding me on how to pursue the final procedures of getting my claim filed in the right manner. Mr. Floyd Archiletta was very, very helpful in providing the rest of the work that needed to be filed, so I want to thank all of those people for the help they had

given me. And at this particular point in time, like I say, I do feel that the government owes these people that worked up in the government projects and have gotten contaminated, they owe them a lot more than what they owe them rag mops up in Afghanistan, up in Africa, up in Europe, any part of the -- other part of the world that we provide aid to. I think aid should start over here with this people. Thank you very much.

UNIDENTIFIED: Right, Fil.

(Applause)

MR. ELLIOTT: Is there anyone else? We've gone past our time and -- okay. I don't want to shut anybody out, but I'm pretty tired and hot, myself.

MR. VILLEDIA: I'll keep it short. My name's Daniel Villedia. I'm environmental health and science student at Mexico highlands. I'm working with Ken Silver on a MTA grant that was granted to us from Resolve. It's an organization out of Washington, D.C. and my grandfather, he died of working at the Labs, he was killed up there, and I've worked at the Labs and I worked for various subcontractors and I worked -- I mean for Los Alamos and PNNL and right now I'm working on this contact list for workers with -- for the CDC when you finish your dose reconstruction so when this data gets -- when this information gets released on CD-ROM that we can help

find any relevant documents or correlation to their claims.

And what I was wondering, is it all right if I hand this out to some workers and they can mail it to me or they can drop it off at our office, which is at the Johnson Control Buildings behind the gym here at the Northern Mexico Community College. We have an office there.

MR. ELLIOTT: Sure, I have no problem with that and I think what you and Ken are doing trying to find available information is valuable. We appreciate your efforts on that.

MR. VILLEDIA: Great, thank you.

MR. ELLIOTT: Well, folks -- okay, we've got one more?

MR. TRUJILLO: I'm Leroy Trujillo, and they called me for a physical and when I came to the physical they said I had some beryllium. And then they called me again and they said I got none. Maybe God or the devil come and take it away from me, I don't know.

(Laughter)

MR. ELLIOTT: I'd suggest you get another test 'cause sometimes the test -- the beryllium sensitivity test comes back negative and then -- as you heard another gentleman talk about his, the third time it was positive again. And they'll take

two out of three, I know that.

MR. TRUJILLO: And then I work in CMR building, in the hardest place of the CMR building. And I got some -- almost cancer. Tumor cancer, and I don't know what's going to happen, so they haven't -- I don't have -- received any more letters or anything.

MR. ELLIOTT: Have you filed a claim for the cancer?

MR. TRUJILLO: Yeah. Okay, thank you very much.

MR. ELLIOTT: Thank you for your comments. Rich?

MR. ESPINOSA: Just a quick statement -- Richard Espinosa. For the members of the public that showed up, I want to thank you. As a Board member on this Advisory Board, it helps me make decisions and represent the people in the best possible manner. As I said before, I was here for my local union, but also as a Board member, and all your statements has helped me out a lot and I appreciate it.

For the members of NIOSH and CDC, if you're traveling to Albuquerque, be careful on the way home. This is the land of enchantment, but it can become the land of entrapment.

MR. ELLIOTT: I want to thank everybody for coming tonight and I thank you for your patience, your perseverance and I really appreciate your sitting here in this hot weather and listening to us. I hope we were informative and helped you. Thank you very much.

(Meeting concluded at 9:30 p.m.)

C E R T I F I C A T E

STATE OF GEORGIA :

:

COUNTY OF FULTON :

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the 8th day of August, 2002; and it is a true and accurate transcript of the proceedings captioned herein.

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

WITNESS my hand and official seal this the 15th day of August, 2002.

_____

STEVEN RAY GREEN,
CERTIFIED MERIT COURT REPORTER
CERTIFICATE NUMBER: A-2102