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United States of America Department of Energy Environmental Management Advisory Committee Public Meeting

December 14-15, 1993

Held at
Holiday Inn
Eisenhower Metro Center
Alexandria, Virginia

Sponsored by:

U.S. Department of Energy
Environmental Restoration and
Waste Management
Washington, DC 20585

December 1993

MASTER *rp*

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COMMITTEE MEMBERS PRESENT:

ALVIN L. ALM
LYNN R. ANSPAUGH
KENNETH W. AYERS
RICHARD L. BANGART
DENNIS A. BECHTEL
JEFF BRECKEL
GERALD CHRISTEAN
TIM CONNOR
DOUGLAS M. COSTLE
VICKY DASTILLUNG
FRED A. DONATH
SHIRA A. FLAX
WILLIAM R. FREUDENBURG
RUSSELL JIM
KEN KORKIA
RON KUCERA
JAMES E. LAPPING
TAD McCALL, JR.
GLENN PAULSON
RON ROSS
BEN SMITH
JAY SORENSON
THOMAS A. WINSTON

DEPARTMENT OF ENERGY PARTICIPANTS:

THOMAS P. GRUMBLY, Assistant Secretary for Environmental Restoration and Waste Management
JAMES T. MELILLO, Executive Secretary for the Environmental Restoration and Waste Management Advisory Committee
GLEN L. SJOBLUM, Designated Federal Officer and Special Assistant to the Assistant Secretary
JIM WERNER, Director, Office of Policy and Strategic Planning
RANDY SCOTT, Deputy Assistant Secretary, Office of Oversight and Self-Assessment
JILL LYTLE, Deputy Assistant Secretary, Office of Waste Management
PAT WHITFIELD, Deputy Assistant Secretary, Office of Environmental Restoration
ELLEN LIVINGSTON, Director, Office of Programmatic Guidance and Compliance
WILLIS BIXBY, Deputy Assistant Secretary, Office of Facility Transition
LARRY WEINER, Associate Deputy Assistant Secretary, Office of Facility Transition
MARK SILVERMAN, Manager, Rocky Flats Office
CINDY KELLY, Director, Office of Public Accountability
GARY VOELKER, Associate Deputy Assistant Secretary, Office of Technology Development

PUBLIC COMMENTORS:

ROBERT DEEGAN, Sierra Club, Virginia Chapter
CLAYTON PLEMMONS, Laborers Employment Cooperative and Education Trust
DAVID TREANOR, International Union of Operating Engineers
LARRY PENBERTHY

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CHAIRMAN PAULSON: I would like to call the meeting of the Environmental Restoration and Waste Management Advisory Committee to order and thank you all for coming. I think we have 100 percent attendance for the first time in a few meetings, perhaps, not surprisingly. As is our tradition, we will go around the table and around the room, so that everyone can identify themselves. While you are trying to remember who you are, I have some mandatory announcements.

First, in case of an emergency, you are to exit the room and walk straight that way to the outside doors. Secondly, restrooms are located outside this hallway, to the right, across from the lounge.

Third, I need to note for the Committee members especially, be sure to speak into the microphones when you talk for two reasons. The first is so the court reporter can hear you clearly and secondly, so the audience and the rest of the Committee can hear you clearly. I noticed yesterday, because of the sound of the air movement system here, it is hard to hear, even at this distance unless people speak up. So, please use the microphone and, of course, any people who address the Committee, that advice also holds.

Committee rooms for phone messages, refreshments, et cetera are on the third floor. Your blue folder at the back has a sheet that gives you all the relevant room numbers and phone numbers if you need to leave them with your office.

Let's start with introductions. My name is Glenn Paulson from the Illinois Institute of Technology. We will go around the table to the right.

MR. GRUMBLY: I'm Tom Grumbly and I am the Assistant Secretary for Environmental Restoration and Waste Management.

MR. COSTLE: I'm Doug Costle and I'm an ex-bureaucrat.

MR. ALM: I'm Al Alm and I have the same qualifications.

MR. MELILLO: I'm Jim Melillo, Executive Secretary for the Committee.

MR. BANGART: I'm Dick Bangart with the Nuclear Regulatory Commission.

MR. AYERS: Ken Ayers with Willis Carroon.

DR. FREUDENBURG: I'm Bill Freudenburg and I'm wondering if everyone else is having as much trouble hearing as I am. I'm also from the University of Wisconsin. Is there something we can do about the -- okay.

1 MR. BRECKEL: Jeff Breckel, Washington State Department of Ecology.

2 MR. CONNOR: Tim Connor, Energy Research Foundation.

3 DR. SORENSON: Jay Sorenson, I'm the Vice Chair of the Sierra Club's
4 National Committee on the Military Impacts on the Environment.

5 MS. DASTILLUNG: Vicky Dastillung, Fernald Residents for Environmental
6 Safety and Health.

7 MR. WINSTON: Tom Winston, the Ohio Environmental Protection Agency.

8 MR. ROSS: I'm Ron Ross, Western Governors' Association.

9 MR. McCALL: Tad McCall, Environmental Law Institute.

10 MR. SMITH: Ben Smith, Governor's Planning Office, State of Tennessee.

11 MR. LAPPING: Jim Lapping, AFL-CIO.

12 MR. KUCERA: Ron Kucera, State of Missouri.

13 MR. JIM: Russell Jim, the Yakima Nation.

14 MS. FLAX: Shira Flax, a current federal bureaucrat.

15 MR. KORKIA: I'm Ken Korkia with the Rocky Flats Cleanup Commission.

16 MR. CHRISTEAN: Jerry Christean, Labor's International AFL-CIO.

17 MR. SJOBLUM: Glen Sjoblom, overjoyed federal official.

18 CHAIRMAN PAULSON: Thank you very much.

19 By way of a Chairman's Report, I will note that, in your blue folder
20 there is a business size white envelope that has a written report from me,
21 which I invite you to read at your leisure.

22 I also need to report that, since our last meeting Jean Jacobus has had
23 a major reassignment in her primary job and, thus, chose to resign from the
24 Committee on the knowledge that she would not have the time to devote to any
25 Department of Energy activities. I have spoken to Jean personally. What she
26 said is what is true. I think some of us did know, in fact, she was getting a
27 new leader at the time of the last Committee meeting, which is why she was not
28 with us.

29 If there is no objection, I would like to send a letter on behalf of all
30 of us to her thanking her and wishing her well. Okay, I will do that.

31 In the interest of moving on to what is a very full couple of days of
32 Committee business, I would like to turn the microphone over to Tom Grumbly.

33 MR. GRUMBLY: Thank you, Glenn.

34 First of all, I see that we have done just an outstanding job protecting
35 all of you from Washington, D.C. by placing you out here in nowhere land. I

1 hope that most of you or many of you will take the opportunity to take
2 advantage of the really fine Metro system that we have here and see a little
3 bit of downtown. The marvelous ways in which the government works makes it
4 okay for us to spend billions and trillions on all kinds of things, but it
5 leaves us in the lurch when it comes to dealing with people. I appreciate
6 very much your willingness to come out to the boondocks here.

7 Let me begin by saying that, this meeting marks, for me at least, sort
8 of the beginning of my vision for altering the way in which this Committee
9 advises the Department. It is the beginning of a process in which I hope that
10 this Committee will mutate itself into a true or as true as one can have in
11 the Federal Government board of directors. I'll talk a little bit about,
12 again, my vision for that and I hope we will be able to interact with each
13 other.

14 Before I do that, I would like to say a few words of both
15 congratulations and welcome. First, I've had the good fortune to know Glenn
16 Paulson for many years, reaching back into the mid-1980s. Glenn is really an
17 outstanding person and I was delighted to find him chairing this Advisory
18 Committee when I was nominated and confirmed to this job. Glenn and I had
19 some long discussions right after I was confirmed and he was gracious enough
20 to tell me that he was happy to continue to serve on this Committee, either in
21 the chairmanship or in another capacity. It is really not very often in life
22 that you run into somebody who is able to look at the larger public good that
23 is involved as well as himself and to understand that, sometimes there is, at
24 least, a desire if not a need to make a few changes.

25 So, the first thing I'd like to say is that, I think we all owe a very
26 large debt of gratitude to Glenn for the last 18 months of service as chairman
27 of this Committee and I for one, at least, hope that he will accept our offer
28 not only to remain on this Committee, but to chair a new subcommittee, which I
29 will be proposing to set up.

30 So, Glenn, than you very much for your service. [Applause]

31 CHAIRMAN PAULSON: Thank you. It has been real.

32 MR. GRUMBLY: As I say, I guess the way of the world is that, everybody
33 wants to sort of make a fresh start. We all recognize that you don't really
34 make fresh starts; that life just kind of goes on. In the interest of trying
35 to make a statement about where I'd like to take this Committee, we have been

1 very fortunate in attracting right away three new members to the Committee.

2 Jay Sorenson, over here from the Sierra Club, has indicated his
3 willingness to join us. I am very pleased that he is a new member of this
4 Committee. Then to my right, we have really been, I think, very fortunate to
5 attract as co-chairs to the Committee two people who perhaps have as good an
6 understanding of the roles of energy and the environment as anybody in the
7 United States. Just to my right, Doug Costle, who many of you know, has the
8 honor of serving as the Administrator of the U.S. Environmental Protection
9 Agency from 1977 to 1971. Doug has a -- excuse me -- '81. It only seems like
10 we went backwards.

11 He's been a friend for a long time.

12 Prior to that, Doug served with the Congressional Budget Office during
13 its formative years. He was Commissioner of the Environment for the State of
14 Connecticut and since then, has gone on to be Dean of the Vermont Law School.
15 He is now an ex-bureaucrat and person of the world and has probably the best
16 job of anybody I know, which is he works for himself. Doug has agreed to be
17 co-chair of this Committee at my request.

18 To his right, Alvin Alm, an equally distinguished career. Al is
19 currently, I guess, Senior Vice President of SAIC, Incorporated. Prior to
20 that, maybe not just prior, but almost prior to that, was Deputy Administrator
21 of the U.S. Environmental Protection Agency under Bill Ruckelshaus and also
22 was one of the founding Assistant Secretaries of Energy and First Assistant
23 Secretary for Policy in the Department of Energy back in 1977, again, during
24 the Carter administration.

25 I think we are extremely fortunate to have these two gentlemen, who
26 bring not their own resumes, but really a marvelous sense of what it takes to
27 be effective in the political processes of the nation as well as to make large
28 organizations like this work and function. I am extraordinarily pleased and
29 grateful to them for their willingness to come on and help us. When I get
30 finished making some remarks, I'm going to pass the baton to Doug today. Doug
31 has agreed with the choice of straws to chair this Committee meeting for us.
32 But I want to thank both of them for their willingness to come on.

33 Their willingness to come in and work with us, I think, signals a new
34 era for this Committee. I've talked to my staff and I share the feeling that
35 we desperately need as an organization the ability to raise the stakes for

1 success. By raising the stakes for success, I mean, if this program, this
2 program to close the circle on the splitting of the atom, this program to deal
3 effectively with the legacy of the Cold War, if this program is to be
4 successful, if it is to meet the challenges of squaring the resources that we
5 are likely to have with the challenges that we have, we must have the
6 capability of reaching the American public and the American political system
7 in a way that is unusual.

8 I think for a lot of programs in government, it is enough to kind of
9 just motor along and work the appropriations processes and develop the
10 relationships with the congressional Committees and reach out to stakeholders,
11 to reach out to everybody who is involved and just kind of do business. I
12 think if we stay in that sort of business as usual mode, that we will very
13 quickly find ourselves in the middle of the train wreck that I described the
14 last time that we met, the train wreck in which the public's expectations for
15 our ability to clean up far outstrip the resources that the Congress seems to
16 be willing to give us.

17 So, I think it is important that a group like this dedicate itself both
18 to providing the kind of advice to those of us who have the honor to run this
19 program, as well as to serve as spokespeople on the outside for the needs and
20 the requirements of this program. That is not to ask you to throw down your
21 mantles of being constructive critics of the program, but rather to don a new
22 mantle of being an advocate for what it is that we are trying to do when you
23 are persuaded that what we are trying to do goes in the direction that you
24 think we ought to go in.

25 The importance of that is, I believe, very strongly in the old Benjamin
26 Franklin aphorism that, we're either all going to hang together or we are
27 going to hang separately. I think that is particularly true in this program
28 where the architecture of it is based upon the 70 or so enforceable agreements
29 that we haven't totally satisfied yet, where every day that we sit we are, by
30 definition, out of compliance with the laws of the land and where it would be
31 very easy for this program to disintegrate into a rush for the courthouses by
32 the various State attorneys general and the Environmental Protection Agency.

33 I think that the strains on the system are going to become particularly
34 tough as the nature of the budget caps passed by the Congress during this past
35 year become absolutely clear. I have no doubt that the Department of Energy's

1 Environmental Restoration Program is going to continue to consume a larger and
2 larger percentage of the resources of the Department of Energy. However,
3 there are two ways that that can happen, both in the numerator and the
4 denominator. I suspect that, for the coming period of time, it is the
5 shrinkage of the denominator more than the increase of the numerator that is
6 going to have us continue to consume more and more of these resources.

7 So, we are in a very, very interesting time, a phase shift, if you will,
8 from the first five years of this program in which we saw a nearly 300 percent
9 growth in the resources that were available to the Environmental Management
10 Program and a time in which we are going to have to all pull together to make
11 the very best use of each and every dollar that we have available to us. I
12 think part of the strategy of making sure that we not only make the best use
13 of those dollars, but that we get the best advice is to turn this Committee
14 into as much as any public organization can have, a true board.

15 Let me briefly describe what I mean by that and then I will turn it over
16 to Doug for his comments. Maybe we can have some dialogue about this.

17 Doug, Al and I have had the opportunity to work on several organizations
18 together, mostly in the not for profit realm that had distinguished boards
19 such as this. In my view, the way those boards worked the best is, it is our
20 obligation, the obligation of those of us who are running this program to
21 present to you the major policy issues that come before us, to try to present
22 them to you with enough lead time before we actually have to do things, so we
23 can get your input and advice about how to proceed.

24 That means that it is our obligation to try to provide you with the
25 kinds of briefings that don't snow you, that provide you with an opportunity
26 to see the warts, to listen to our doubts, problems, options, in other words,
27 to bring you in as much as we possibly can. Then it is your responsibility to
28 try to wrestle with these problems as much as you possibly can and give us the
29 kind of advice that we require to move ahead.

30 As I indicated in Idaho in September, in order to do that effectively,
31 each person who comes this room or the other rooms that we have, I would ask
32 that you really leave your interest group affiliations at home and that every
33 person come here as much as possible with just the name on the table and the
34 talents that you bring with you as human beings. That is a difficult thing to
35 request, because each of us, particularly in this society, is used to

1 unfortunately identifying themselves with particular institutions as their
2 reason for being here.

3 Over time, what I want to say is that, the reasons for people being here
4 is because we think you are smart people who have something to contribute, not
5 simply because of what organization you represent. Obviously, the ways in
6 which one picks committees like this has a lot to do with the kinds of
7 organizations that you represent, but we would really ask you or, at least, I
8 would personally ask you to divest yourself as much as possible of that so we
9 kind of come together as a team and operate as much as a team as we possibly
10 can.

11 Given the fact that, we are a public agency, you can't be in fact a
12 board of directors, because we have one chairman, the President and a 535
13 board of directors on Capitol Hill. But I think that it is a useful analogy
14 to think about this Committee in that respect, because that means that we will
15 take what you have to say as seriously as we possible can. We will justify to
16 you as much as we possibly can the reasons why we have taken the actions that
17 we are and we will try to be absolutely as candid with you as we possibly can
18 about the problems that face us, not so that when you leave the room we can
19 say that each and every person agrees with what it is that we're doing, but so
20 that we really have the benefit of the advice that you can bring to our
21 actions.

22 That is what I mean by a board of directors. We will ask for your
23 input. We will take that input seriously. If we go in a direction that is
24 different, we will tell you why we are going in that direction. We will
25 accept criticism non-personally to the extent that we can and we will work
26 together to try to make this program the kind of program that each and every
27 one of us can say we are proud we are associated with. That really is my
28 vision of where I would like to see this Committee go.

29 With that, I guess I would like to turn it over to Doug to begin it.
30 Maybe we can have a little dialogue about this after you and Al make whatever
31 remarks you would like to make.

32 Doug.

33 CO-CHAIR COSTLE: I do not intend to make extended remarks this morning,
34 except to thank Tom for the opportunity to serve and to tell Glenn how much I
35 am looking forward to working with him. He and I have often off and on

1 collaborated on things in the past as have Al and I. In fact, actually Al and
2 I collaborated in putting EPA together back in 1970. So, this is something
3 that I look forward to.

4 It is also a very, very interesting Committee and I think this program
5 is wrestling with one of the most profound problems that our government has to
6 deal with today. I mean, we live in a complicated world at a time when there
7 is very little faith on the part of the American people that government can
8 solve problems that our society is wrestling with. At least, there is a
9 serious question about how effectively government can intervene to solve these
10 problems.

11 When it comes to government solving problems that they themselves helped
12 create, there is even less confidence on the part of the public. So, I think
13 there is more at stake here than just the business of trying to deal with the
14 specifics of the sites. I think there is a larger issue of governance
15 involved. So, in many respects, we are going to be break -- we already are
16 breaking new ground in terms of trying to design new ways to make decisions
17 about these things, ways that will garner public support.

18 There is no way that we will be able to operate without incurring our
19 fair share of criticism. That seems to be inevitable in this day and age. I
20 think it is an unprecedented experience for the government to reach out so
21 early in its efforts to deal with the problem to a much broader public and a
22 much broader set of constituencies for real consultation in hopes of doing a
23 better job right off the bat.

24 So, for myself, I just want to tell you how much I look forward to
25 working with you. I think this could be a very exciting experiment and I am
26 pleased to be in the company of such a distinguished group of people. So, I
27 look forward to it. Al.

28 CO-CHAIR ALM: Well, thank you, Doug.

29 I think this Committee has one of the most important challenges I have
30 ever seen for an advisory committee. First of all, the waste management
31 program is simply one of the most complicated, expensive and controversial
32 ones one can think about. There are many constituencies where probably
33 participation is absolutely critical. A group like this provides the scope
34 for that kind of activity.

35 Secondly, I was interested in being a part of this, because I think that

1 the leadership in the Department with Tom Grumbly is adequate to the task. I
2 think he is capable. He is open and he has a vision. So, finding a chance to
3 work with all of you and Doug is an exciting possibility. So, I am looking
4 forward to this and hope to get to know all of you much better.

5 CO-CHAIR COSTLE: When Tom asked Al and I to take on this assignment, we
6 both said to Tom that one of the things that we thought would be helpful,
7 since we have just gone through a change in administration, this
8 administration is getting its key people on board. They have had a few months
9 to begin to wrestle with these problems. That is always a period of really
10 rapid change in any program. So, we really suggested to Tom that this meeting
11 might help us all if we got a very current picture from his senior program
12 managers of where they are and what they are doing and what their problems and
13 concerns are.

14 The idea of this is really not that we spend a day hearing briefings,
15 but that in addition to that, that we have an opportunity to interact with the
16 senior program managers and they have an opportunity to ask us for our advice.

17 So, the format today is to really have the senior people talk to us for
18 20 minutes, hopefully, max and to allow a good 40 minutes for discussion so
19 that we have a chance to deal with the specifics and create an iterative
20 process and dialogue.

21 At this point, before we begin, Jim Werner, I think, is here, isn't he?
22 Jim will make the first set of presentations. At this juncture, I would like
23 to open it up for any comments, preliminary thoughts before we actually begin
24 the formal program today.

25 MR. CHRISTEAN: Mr. Chairman, I have a couple of questions on my mind.
26 Being as Tom is here and he made the decisions, I would like to ask him about
27 them. I don't want you to misinterpret the questions as being critical. I'm
28 wondering.

29 Why two co-chairs? What did you hope to accomplish by co-chairs?

30 MR. GRUMBLY: Fundamentally, what I had hope to accomplish is a kind of
31 synergy, first of all, in talents that I think you often can't get with just
32 one person. So, I think that in Doug and Al we have two people where the sum
33 really is greater than the two folks together.

34 Secondly, I need more help than one person can provide.

35 Third, is in many ways the fundamental issue of time. I am interested

1 in having all of you, but a core group of people that I know that I can pick
2 up the phone who are plugged in to understand what is happening. Given the
3 busy schedules that these two gentlemen had, I really felt the need and so did
4 the Secretary when I discussed this with her, to have the talents of both of
5 these people available to us.

6 MR. CHRISTEAN: It never occurred to me until you just explained that,
7 that really the fact of the matter is, in the past 18 months, we have abused
8 the time of Glenn Paulson. He really has spent a lot more time than, well, a
9 hell of a lot more time than DOE has paid for.

10 CO-CHAIR COSTLE: Do you mean you got paid for this?

11 MR. CHRISTEAN: I have one more question too, Tom, if I could.

12 MR. GRUMBLY: Certainly.

13 MR. CHRISTEAN: Right off the reel, you all took over the agenda. Is it
14 your intention -- let me say to you by a preface. Up to this meeting, we have
15 had the agenda and formed it.

16 MR. GRUMBLY: Right.

17 MR. CHRISTEAN: Is it your intention to take over the agenda or what is
18 your thinking?

19 MR. GRUMBLY: Well, first of all, I would like to hear the views of
20 other folks about this. Everybody is, I suppose, a prisoner of their own
21 thought processes a little bit. My way of trying to take this as seriously as
22 possible is to really bring to bear the kinds of experiences that I've had in
23 the past when I have had to report to real boards of directors where
24 fundamentally it was my responsibility as the CEO or whatever of the
25 organization to bring to the board those issues that were really in the
26 forefront of our operations, of where it is that we needed to go and to do
27 that on, essentially, a quarterly basis.

28 There was always -- and I know that the same is true here. There were
29 always enough pressing things where I had to have the advice and counsel of
30 people. So, the issue of a self-generated agenda wasn't necessary from the
31 board. In order for us to take, those of us who are on the staff of the
32 organizations or companies that I worked with, in order for us to take it more
33 seriously, we had to have answers to the questions.

34 So, first of all, having control of the agenda was -- first of all, the
35 agenda was always done in consultation with the chairs of the board. So, I

1 would certainly propose to check the agenda with the chairs.

2 Secondly, in my view, having us bring the agenda to you is not a symbol
3 of us trying to wrest away control from you, but to be sure that we are
4 bringing to you the issues that really are in the forefront of what it is that
5 we have to deal with. I am perfectly happy, by the way, to have suggestions
6 about what ought to be on our agenda for all or part of the meeting.

7 In order to make the best time, the best use of the time that we have,
8 then I would propose that we not have several a day meetings. If we are going
9 to concentrate the abilities, my ability, the ability of our senior staff to
10 be here, I would propose that we basically come in, do something like what we
11 are doing today, really have the meeting be kind of a day and a half meeting
12 and have it be focused on the major issues that are of concern. When we get
13 to the new business section, I think it is fine to have people suggest items
14 that ought to be on the agenda for the next meeting.

15 I mean, I'm not trying to be grabby about it. What I am trying to
16 basically do is bring to you those things that are really in the forefront of
17 the policy agenda.

18 MR. CHRISTEAN: I would like to respond to that, if I could, Tom.

19 I was going to say to you, you don't look grabby. And I want to say to
20 you too that, speaking for myself, I think I'm kind of glad that we are going
21 to be working on those issues that management feels like are the ones you need
22 the advice and help on. Sometimes I have wondered whether we were working on
23 the same page always and we all wanted to be. We all wanted to be as much
24 help as we could be, but I'm not sure that we were all -- for my own self, I
25 can say I was not always convinced.

26 So, no, I commend you for what you have done and I appreciate the
27 explanation.

28 MR. GRUMBLY: Certainly.

29 CO-CHAIR COSTLE: Maybe I can add a postscript to this.

30 One of the things that Tom and I talked about too, is both being old
31 Washington hands, if you will. It is also clear that one of the things that
32 tends to happen is that, you experience over the course of your service a
33 narrowing of perspective, because there are no -- I mean, everybody in jobs
34 like this work awfully damned hard. You get the feeling after a while that,
35 you are up to your neck in alligators. It is sometimes easy to forget, as

1 they say, that your original purpose was to drain the swamp.

2 So, one of the things that Tom asked me, he said, you know, we're going
3 to be working very hard at making a real, taking a real bite out of this
4 problem and setting the direction for this program. We also do not want to
5 lose our perspective on things. We don't want to experience a narrowing of
6 focus, a tunneling of vision. You have to remind us from time to time to pay
7 attention to the things that may have gotten to the periphery of our vision
8 and need to be brought back more into focus.

9 So, it will be our job obviously to deal with the mandate as Tom has
10 laid it out, but I have promised him for myself and, I hope, on behalf of all
11 of us that we will also work very hard to help him remember that the purpose
12 is to drain the swamp even while he is fighting off all the individual
13 alligators.

14 Al, do you want to add anything?

15 CO-CHAIR ALM: Tad, maybe.

16 MR. McCALL: Thank you.

17 Tom, first I would like to say how much I appreciate you putting Jay and
18 Al and Doug with us here. That really adds a lot to our Committee.

19 Secondly, I would like to take you up on your request that we act as
20 individuals here. It is very easy from an unpaid position to do that. I
21 think that I can also assure you that I always speak from my own personal
22 point of view. That is part of the reason I may not be with the
23 administration right now.

24 CO-CHAIR ALM: Virtue is its own reward.

25 MR. McCALL: I would like to state right now and throw down the general
26 gauntlet on one issue and that I draw from your speech, your paper to the
27 National Academy of Sciences on risk assessment.

28 The assumption is that, we are spending or will be spending too much for
29 environmental. The hypothesis is that we may be spending too much money, more
30 money than Congress will be willing to appropriate for the environment. When
31 you look at the combined Defense appropriations for the Department of Defense
32 and the Department of Energy, it is around \$280 billion of which about \$10
33 billion is going to go, \$12 billion is going to go to environmental
34 restoration and environmental compliance and management issues. That is less
35 than five percent of the budget.

1 You divide that five percent further and you take a look at two and a
2 half percent of that is for remediation. Two and a half percent is for paying
3 the cost of winning the Cold War, an effort that, at one point, our nation
4 threw every available resource to accomplish. Now, we are talking about two
5 and a half percent of one line, although a big line, item in the budget. I
6 don't think that is too much price to pay.

7 Also, the other two and a half percent constitutes management and
8 infrastructure support. It is a pitifully small amount of money. Environment
9 is the way that we are going to build our infrastructure up. I would submit
10 that, there is an equally valid hypothesis that this nation is not spending
11 enough in those lines.

12 Now, I look forward to taking those hypotheses, we are spending too much
13 or too little and I join you in agreeing that we need some valid way to
14 estimate that. I will join you in that debate, but I want you just to know
15 that, I don't share the hypothesis that we spend too much money. I do agree
16 we are spending it unwisely, but I'm looking to support what I think America
17 needs and that is, continued emphasis in environmental spending and programs.

18 MR. GRUMBLY: Well, we will need every bit of your help that you can
19 give us when we get into the appropriations process.

20 Let me say just one thing and not necessarily in response to that, but I
21 don't know if you have had the opportunity to see the "New York Times" this
22 week when the discussion of the Defense budget being \$50 billion under funded
23 for the next five years was on the line. A senior Pentagon, unnamed
24 naturally, official said, well, maybe we don't have to do as much
25 environmental cleanup over the next five years.

26 So, we are going to have to make sure, as I am fond of saying, that we
27 keep the pressure going out on this program.

28 CO-CHAIR COSTLE: Tim?

29 MR. CONNOR: Well, first of all, welcome to the Department. I'm sorry I
30 wasn't able to attend the meeting and I just want to greet you and to really
31 take you up on your plea for partnership.

32 I think I am one of those who was put on the Committee by the last
33 administration largely out of my reputation for being irritating. That gives
34 the Committee some credibility. At the same time, I would say that,
35 particularly in the last year, I have really not hesitated to commend the

1 Department for its efforts in an area that I'm keenly interested in as
2 involving the public at the DOE sites.

3 That really leads to my question about how you see the EMAC relating to
4 that program which now, I think, has been very successful and surprisingly so.
5 I know at the last meeting, there was discussion about the EMAC serving
6 perhaps conveniently as the mother, chartering organization through which the
7 site advisory boards -- I think there are perhaps a dozen underway in the
8 complex now that are being set up.

9 My understanding of that development was that, it was largely driven by
10 the requirements of the federal advisory committee and the difficulty of
11 chartering each of these boards under the act. What we are left with if that
12 is the main option for the Department is, an EMAC which however representative
13 it is in other ways, is predominantly male and predominantly white. This is a
14 problem, I think, in terms of its credibility to serve as the over arching
15 structure in this process. In that respect, it does not reflect the -- I'm
16 trying to remember the line from the President's speeches.

17 MR. GRUMBLY: It doesn't look like America.

18 MR. CONNOR: Yes, exactly.

19 I think it is something that you ought to address. Obviously, this is a
20 very big swamp and there are lots of alligators. I think much of the success
21 the Department is going to have in draining the swamp is really being able to
22 win the trust and cooperation of these communities. I just pose it to you as
23 an issue.

24 MR. GRUMBLY: Yes.

25 MR. CONNOR: Well, I think you are right, certainly, on the second
26 point. We have to get a lot more diverse and my expectation is that, over the
27 next year through both by letting nature take its course as well as by active
28 intervention that, we will make this Committee substantially more diverse than
29 it is now.

30 With respect to the first question, you brought up the issue of the
31 site-specific advisory boards. I guess I would like to use this an
32 opportunity to put an issue on the table.

33 First of all, I will have the opportunity to hear from Cindy Kelly who
34 is our new Director of Public Accountability tomorrow, I believe. One of the
35 issues that has been raised by our general counsel in response to making the

1 EMAC the umbrella committee for the site-specific advisory boards, they don't
2 have any problem with that per se, but what they do have a problem with is not
3 having any of the recommendations of the site-specific advisory boards, at
4 least, in form if not in substance kind of flow through this Committee.

5 So, I think one of the challenges -- and maybe we can put it aside for
6 discussion either now or later. I'll leave it to the chairman. It is whether
7 we can create a committee, a subcommittee of this board that can sit down with
8 some of the people who are running the site-specific advisory boards and come
9 up with a satisfactory mechanism for making sure that this overall board is
10 aware of what is going on in the site-specific advisory boards, but doesn't
11 have to sort of take any formal action with respect to things that are
12 happening around the country. It would make, from a legal perspective, our
13 lawyers feel a lot more secure that we are hewing to the letter of the Federal
14 Advisory Committee Act with respect to this.

15 It would also provide, I think, an opportunity for the subcommittees to,
16 in working with the chairs of the site-specific advisory boards, decide in
17 consultation with them when some of the issue that are happening around the
18 country, when they ought to reach this Committee for some kind of formal
19 discussion as well.

20 I think Russell Jim.

21 MR. JIM: Thank you and good morning.

22 Welcome to the club, Mr. Costle, Mr. Alm. I think it is a little bit of
23 irony that Jim Werner is sitting here as a representative of the Department of
24 Energy.

25 MR. GRUMBLY: Well, there are different kinds of diversity.

26 MR. JIM: I'm learning that. When I become an adult, I hope I learn all
27 the more on that.

28 I would like to pick up on that too and the remarks of Mr. Costle and
29 Mr. Alm and your background. I, first of all, appreciate very much Tad's
30 remarks about the budget. I think this reflects upon my concern analogous to
31 how the indigenous peoples are treated in this country. For instance, the
32 grant that the Yakima Nation receives is very minuscule compared to the
33 overall budget.

34 And forgive me that I have a tendency to cling to the words. I suppose,
35 as is history, you cling to the words from the hierarchy of administration

1 after administration hoping there will be some improvement. Now, the
2 President has recently sent a letter to the National Congress of American
3 Indians recognizing sovereignty, recognizing the government to government
4 relationship.

5 So, as a representative of EMAC, I hope that I don't come about
6 consistently as representing a special interest. I'm hoping that we become
7 part of the process, because as you say, Mr. Grumbly, about being a part of
8 this, I have always been a prisoner of the processes. I am hoping with the
9 background of all of you gentlemen in the hierarchy we will begin with this
10 dialogue an improvement of the relationship of the people I represent across
11 this country.

12 I can't speak for all of the indigenous people. We don't all wear the
13 same hat. We don't all have the same problems. We don't all have the same
14 buckskin suit and et cetera. So, I'm hoping that while we go through all the
15 processes, that we will understand where we are coming from, what we are
16 trying to accomplish. The indigenous peoples can contribute and I hope we are
17 not looked upon as one of the alligators.

18 We are hoping that with this continuing dialogue, understanding will be
19 created here, so we aren't left out of the processes of any rules or
20 regulations of EPA or any other agency that has consistently looked at us in
21 the periphery. It's about time we come out of the periphery and get into the
22 mainstream here, because we do have something to contribute. We can be
23 helpful. We wish to be helpful.

24 Thank you.

25 CO-CHAIR COSTLE: Bill.

26 DR. FREUDENBURG: I always wondered. You sit at the chairman's right
27 hand. You are never seen, but obviously, you spotted me today.

28 I wanted to say just a word about the issue of independence of advice,
29 because if there is any excuse, not only for all of us to spend time in
30 palatial hotels where we are listening to a fine sound system, but also to
31 take up the amount of taxpayer money that it takes just to fly us all to one
32 spot, even if we get cheap tickets. It has to be that two heads are better
33 than one or that you are getting some independent advice. I think that your
34 request that we try to think in terms of our broader citizenship is a very
35 good one.

1 I also have a great deal of respect both for what I've seen of you so
2 far, Tom and also what little I know of our new chair and co-chair. I am
3 somebody who, among other things, teaches about organizations. Somewhere in
4 organizations, one, there is some research that I would draw on that would
5 say, if you want independence of a committee, at least, in terms of how it
6 looks on the surface, our recent experience could hardly be any worse.

7 Again, I have a great deal of respect for you and I believe that, given
8 what I have seen of all our new people, you don't want to become a new chair
9 of a committee where you are being accused of being set up in some way or
10 another. This Committee has spent a long time of wrestling with issues of how
11 it comes to grips with who we are, learning of our own resources and trying to
12 get on top of the agenda was one of those items.

13 We had a long discussion about how our previous chair was chosen. We
14 decided at the end of it that, given our respect for him, we would like to
15 keep him as chair. By golly, the next time there is a chair on this
16 Committee, we really want to be consulted. Here it is, what, two or three
17 meetings later and we have a new chair and co-chair and as distinguished as
18 they are, this was a surprise to me and I suspect it was a surprise to most of
19 the people on this Committee.

20 So, I will reiterate -- one small illustration actually -- well, it's
21 too small. I'll drop it for now.

22 The bigger point is that, while I welcome you, you have to be at least
23 as crazy as we are to take on this new job. I do want to say that, I hope
24 that what we have seen in the recent past is simply a set of minor aberrations
25 and not a sign of a trend to come.

26 MR. GRUMBLY: I hear the criticism.

27 DR FREUDENBURG: Couldn't you have asked us, just for appearances sake?

28 MR. GRUMBLY: Well, truth is better than fiction.

29 I would say this. When I had the opportunity to speak to you in
30 September, perhaps I was too elliptical. I actually thought I was being quite
31 direct in talking about what I regarded as the necessity to either strike out
32 on a new direction or to -- well, we needed to go in a different direction.

33 I perhaps should have been more direct in saying that it was my interest
34 in changing chairs. Glenn and I had had some discussions at that point. I
35 guess that in retrospect, I hear what you are saying. I will endeavor to at

1 least make you aware of what it is that I'm going to do before I do it.
2 That's the whole point of having a committee like this.

3 So, I hear the criticism. It's certainly not my objective to disempower
4 people on this, but I accept it.

5 Yes, Shira?

6 MS. FLAX: Good morning.

7 Tom, I really welcome your wanting to use us as a board of directors to
8 the extent that it can be done in the Federal Government. You also asked us
9 to speak as individuals and as a person, there are just three things that I
10 need.

11 One is that, I need a better explanation of why the senior staff chose
12 the particular topics to brief us on, why they are emerging issues and by when
13 these issues have to be resolved?

14 Then the second thing is, I personally need guidance from the senior
15 staff on how they want this Committee to be involved in the resolution of
16 those issues. Do you want us to form subcommittees to work with you? Do you
17 want us to sort of like use the resources we have from our own experience and
18 the expertise or any knowledge we can bring to bear to help resolve these
19 issues perhaps as a subcommittee?

20 The third thing is, I personally -- this is just a personal thing with
21 me. I feel more comfortable offering advice on a topic that I have received a
22 briefing paper on previously. I'm just no good with seat of the pants advice.
23 If that could be arranged in the future, I personally would appreciate it.

24 MR. GRUMBLY: Yes.

25 Well, let me work backwards. I think you are absolutely right about the
26 third issue. We will try not to weigh you down with thick briefing books, but
27 we will try to provide you with appropriate papers oriented towards decisions
28 for the issues that we bring to you.

29 Secondly, in terms of organization, while I think that we might want to
30 have a discussion about what the best way to utilize subcommittees might be, I
31 have a particular suggestion right away. My experience is that, given the
32 time constraints and the fact that we are not paying you, we need to be very
33 sort of chary of your time about this. So, I think we need to be selective in
34 the number of subcommittees that we come up with and what we ask you to do
35 between meetings.

1 Third, with respect to the issues that are involved here, I would say
2 looking over them today, we are trying to put before you sort of some of the
3 major across cutting issues that we have at the moment. I will ask each of
4 the presenters and if they forget, I would hope that you would bring up the
5 issue of why it is most important.

6 For example, the first one, in terms of program deliverables, we have a
7 lot of new requirements that the Congress has put on us that are going to
8 generate an enormous amount of work for us that I have asked Jim to discuss
9 with you and get your sense about how we might be able to meet both the intent
10 and the letter of what needs to be done. Obviously, our compliance issues are
11 something that a lot of people are concerned about over time. It involves the
12 issues of money versus responsibilities.

13 The safety initiatives and the cost studies, first of all, the cost
14 study has been in the press. It forms, again, one of the major issues that we
15 have to deal with. It also involves the first, as far as I know, total system
16 stand-down that the Department of Energy has ever had. So, it is a really
17 critical issue facing us.

18 Safety continues to be a major issue that we confront. The Federal
19 Facility Compliance Act is something that we are sort of in mid-course on,
20 trying to get our agreements in principle with the State in line. We want to
21 kind of give you a sense of where we are and get your advice about how we can
22 best proceed.

23 We are at the front end of dramatically changing the contractual
24 relationships that we have with our private sector partners. The Cold War is
25 over, we hope. I'm a little less sure after the elections yesterday.
26 Although I think it is clear that the world is never going to -- I mean, the
27 world is going to change. It is changing objectively about this. So, we are
28 really being forced to change and we are, again, at the front end of really a
29 revolution in how we do business. So, that is an extraordinarily important
30 event.

31 The PEIS that you are going to discuss this afternoon is sort of, I
32 guess, still kind of the found reason for actually having this Committee. I
33 probably don't have to explain that to anyone.

34 Tomorrow, we are going to be dealing with Rocky Flats. The EM
35 organization just assumed budget responsibility for the most, for one of the

1 certainly most problematic sites that we have to deal with and Willis Bixby
2 and Mark Silverman who is the new office manager out there. We need to talk
3 to you about that.

4 Obviously, our site-specific advisory board is intrinsic to this
5 Committee. We have a major new initiative in the R&D area that we want to
6 talk to you about. Then I would like to conclude where Tad started to pick up
7 and talk to you a little bit about and get your advice on our plans for
8 meeting the congressional mandates with respect to assessing the risk at our
9 sites.

10 So, taken together, the issues that are on this agenda are, not in their
11 entirety, but they are certainly a major slice of the major issues that I have
12 to confront and that the secretary has to confront in leading this
13 organization. That is going to be at least from the part of the agenda that
14 we generate for the future, the criteria that we are going to use, which is
15 the major issues that are in front of us that we need your advice on.

16 Glenn?

17 DR. PAULSON: I just want to go back to Tim's point. It has been the
18 luck of job changes and so on where we lost two women. I actually volunteered
19 to Tom to change one of my affiliations, either the male one or the white one.
20 He, fortunately, rejected that. My wife was pleased about one of those. The
21 Committee was asked by Tom to suggest additional members, as you may have seen
22 from the minutes when you were there. The last I knew, there actually had
23 been no additional suggestions from any member of the Committee. Since I am
24 now just a simple Committee member, a technologist serving on this group, I
25 intend to come up with some names that would reflect the diversity idea and
26 also be technically competent individuals as well. Basically, that charge is
27 in front of all of us, to come up with suggested individuals.

28 MR. CONNOR: May I clarify an issue?

29 We did have a work group that came out of the Rocky Flats meeting, which
30 I was a part of. They provided language expressing the Committee's sentiment
31 about being consulted and about selecting the board members and the future
32 chairs. I wasn't at the Idaho meeting. Would you explain what happened to
33 that language?

34 My understanding was -- I was given the assignment of drafting that so
35 that it could be considered at the Idaho meeting for adoption by the

1 Committee. I don't know what happened to it.

2 MR. GRUMBLY: I don't either.

3 Glenn?

4 MR. SJOBLUM: At the Idaho meeting, Tom Grumbly, when he talked about
5 the desire for additional members in fact named the three areas where he felt
6 that additions would be useful and invited the members of this Committee to
7 provide suggestions. So, I do believe that at least the offer was there for
8 the Committee to make suggestions on members and I remember there was some
9 discussion and statements of intent on the part of some of the Committee
10 members to do that.

11 MR. GRUMBLY: Let me just say this. Whatever happened in the past, what
12 I think that Al and Doug and I can guarantee to you is that we will bring new
13 names to you for advice as we go forward. That's about all I can do. I can't
14 deal with the past anymore.

15 MR. CONNOR: It sounds like something very regrettable happened. The
16 Committee had worked fairly hard, I thought, on this area because of the
17 concerns that we had and then it just fell through the cracks. I think that
18 most of that is unfair to Mr. Costle and Mr. Alm. I think that Bill is right.
19 A lot of us are scratching our heads as to what happened to those sentiments.
20 From where I sit, it looks like it fell through the cracks. I'm sorry that
21 happened.

22 DR. PAULSON: There were two or three other things that were supposed to
23 be acted on at the Idaho meeting that also fell through the cracks, some
24 targeted advice from the PEIS Subcommittee, for example, on how to deal with
25 costs in the restoration program. I can shoulder much of the blame for that.
26 The nature of the discussions was altered during the course of the meetings
27 significantly and we also lost a lot of members because of a conflicting DOE
28 event that took away a large chunk of the members that were there for much of
29 the meeting. That was an unfortunate, but unfortunately not unique example in
30 terms of committee functioning.

31 So, it wasn't just that point. There were two or three other things as
32 well.

33 MR. GRUMBLY: Fred.

34 DR. DONATH: First of all, I wish to apologize to the Committee for
35 being late. I set my alarm for 3:30 Pacific time, but obviously slept right

1 through that.

2 To clarify the matter of the issue that Tim just mentioned, there was a
3 memo of August 4th from Tim to the other members of that group that were asked
4 to discuss and present some proposed EMAC rules and responsibilities. I
5 raised the point with Glenn Paulson, who was serving as chair at our last
6 meeting and because Tim could not attend, he suggested we table that.

7 It is unfortunate that that was dropped through the cracks and I think
8 it should be put on the table again. Some thought was put into that. I think
9 it is worthy of consideration. We need to go beyond where we are now
10 obviously and reexamine some of those things. I would suggest that perhaps we
11 get that duplicated and distributed and put on the table for discussion at
12 some later time.

13 MR. GRUMBLY: Tom?

14 MR. WINSTON: I think most of us are certainly encouraged and optimistic
15 about the changing role of the EMAC. I would like to follow up on something
16 that Shira mentioned. I guess I have been thinking about how we can best
17 provide the input that you need. We are not a lot of Committee that has a lot
18 of motions that we have adopted. That is not our normal practice.

19 I'm a little concerned about receiving senior staff briefings. We have
20 a variety of comments, some of which are positive, some of which are maybe a
21 little bit negative or saying go in this direction. I guess I'm interested in
22 how we can best be very crisp in our recommendations and input to you. Do you
23 want formal recommendations? Are you looking for a blessing at that point in
24 time? Are you looking for assignments to come back to us at our next meeting?

25 I'm trying to think how our historical operations, which often are not
26 quite as crisp as we all might like because of the diversity in the group, how
27 we can best give you the advice that you need in a way that is useful to you.

28 MR. GRUMBLY: Well, first, I think we need to have a part of this next
29 two-day meeting including this evening getting to know each other a little bit
30 more, so that we can deal with some of these issues. I would expect that when
31 I get pulled away this afternoon and first thing tomorrow morning that maybe
32 the Committee can talk about these things without having me around and Al and
33 Doug can help moderate a debate.

34 What I am most used to personally -- and you don't have to do it this
35 way -- is that we work very hard to try to see if there is a kind of consensus

1 in the group. By consensus, I don't mean that everybody agrees totally to
2 where we are going, but that we get a sense of what the major concerns are
3 that people have, whether the thrust that we are making is generally in the
4 right direction. I guess I'm used to the art, on boards, of sort of gentle
5 persuasion about how one needs to go and not taking votes.

6 So, I'm not certainly against people taking votes if we can't come to a
7 consensus, but it seems to me that the best way to proceed on these matters is
8 always to try to get everybody's views on the table and then see if we can't
9 find a way that is not just a muddle through, but that is a true sort of path
10 forward. I'm certainly open to motions that the Committee can make. You
11 represent an important, a very important slice of opinion, as you understand
12 being a public servant yourselves in this.

13 I can't be bound in the same way I would be bound if this were a private
14 organization. That's just the nature of public organizations. What I can
15 guarantee you is, I will take your advice very, very seriously, whether it is
16 in the form of a resolution or whether it is in the form of a consensus.

17 MR. WINSTON: I would just suggest that, as we go through this, we
18 continue to sort of evaluate how well we are communicating. You mentioned
19 being somewhat elliptical in your discussion in Idaho and we probably need to
20 be as direct as we can be, just so that we are sure that we are indeed getting
21 our viewpoints across.

22 CO-CHAIR COSTLE: Tom, I think you raised a very good point. This is an
23 unusual thing. I have been in and out of government a good part of my
24 lifetime. What we are attempting to create here is different. It is a little
25 unusual. It is also coming at a time that is very critical in the rapping up
26 of this program. So, I think part of our approach is going to have to be to
27 be flexible in fashioning ourselves and our advice and periodically
28 refashioning that with a real view to the question of relevance. That is, are
29 we being relevant and timely in trying to get advice into the system.

30 I think also one of the things that Al and I and Tom have had a chance,
31 at least, to begin talking about, not having resolved anything at this point,
32 but just beginning to talk about is, what the long term evolution of this
33 group should be. Also, what sort of an ongoing structure ought to be made a
34 part of the program, so that there is a consistent reaching out by the
35 Department of Energy. The use of site-specific advisory boards is a very

1 innovative thing.

2 You are also dealing with a Department that has a longstanding culture
3 and set of traditions that it is time to change, I think. I think everybody
4 is agreed on the need for that. Unfortunately, bad news does not improve with
5 age.

6 And as everybody around here as said at one time or another, as I read
7 the minutes, credibility is the central issue. If there is a unifying theme
8 in terms of getting this program off the ground, it is credibility. So, how
9 Tom is able to reach out and get advice and how we shape ourselves to be
10 useful in that is a very important experiment.

11 My suspicion is that, there are going to be more elements of dynamism to
12 it. That is, it will be a dynamic, changing situation over the years, because
13 this is essentially new ground. I don't think I'm aware, even in the halcyon
14 days of EPA that, there was this kind of an effort to be innovative about
15 developing new ways of dealing with the public and with constituencies around
16 these problems. So, I think your point is very well taken.

17 I think it also is incumbent upon us to be realistic that our usefulness
18 will depend in large measure on how we operate. I think it is very important
19 under the circumstances that we establish a close connection with what is
20 going on among Tom's staff. They are on the firing line every day and they
21 are under pressures from the Hill and OMB and others. We need to kind of be
22 in their pocket and understand what they are confronting and the real world
23 that they are living if we are to fashion our advice in a realistic fashion.

24 Likewise, they need to know how the world beyond the Beltway understands
25 these problems, because all too often, that is where the disconnect occurs.

26 We are at a point now where I think maybe if -- I want to get on to Jim,
27 but we still have a little bit of time.

28 MR. GRUMBLY: We're still on schedule, yes.

29 MR. BANGART: Just a quick comment. I would like to return to the issue
30 of the credibility of EMAC vis-a-vis the board of directors concept.

31 My base of experience is quite different from yours in the private
32 sector, vis-a-vis advisory committees. More often than not, advisory
33 committees as I know them are critical if not harshly critical at times and
34 almost always, at least, skeptical in looking at the agency actions that they
35 are providing advice for. As difficult as that relationship is at times, I

1 have found it to be beneficial, because it is really a hard look that the
2 advisory committee is giving to the agency.

3 The board of directors concept, as you have described it, certainly has
4 a partnership element in it. It has also in it a concept that the board is
5 part of the same organization. I am concerned on the part of the Committee
6 that, if we do this without being careful about that we may be perceived as
7 losing some degree of independence. I would caution us as a Committee as we
8 work with you in this board of directors concept that, we be sure that we do
9 this balancing act very carefully and that we don't put ourselves in a
10 position where we don't reflect the independence that I think we also need to
11 have.

12 I would call the relationship more of an arms' length partnership or
13 something like that, that would allow us to maintain the EMAC credibility.

14 MR. GRUMBLY: Ron?

15 MR. KUCERA: Tom, I appreciate the spirit of openness that you have
16 conveyed to the Committee. I do have some questions about what you think you
17 might allow this group to advise you on.

18 Some of us have been here for approximately 18 months working with EMAC.
19 As we have gone through the exercise of visiting various sites and listening
20 to senior DOE make presentations to us, we have encountered some things where
21 we really haven't been invited to comment on. I think that perhaps, we might
22 be one of the rare venues where you could get some relatively unbiased, clean
23 advice that is not tainted by local politics or the politics on the Hill.

24 Just a couple of examples and I would like to see if these are things
25 that you are going to invite us into.

26 Earlier, you and I were at a meeting this year where we saw a high level
27 representative of Westinghouse struggling mightily to defend a \$214 million
28 budget request for the WIPP site where primarily this year they are going to
29 be working on the bends and alcoves testing and then maintaining readiness at
30 the site.

31 We have heard that on the Hanford Reservation, there is an incredibly
32 bogus proposal that was costed out for cleaning up the north area for
33 unrestricted use where the numbers were inflated, where they were just way too
34 high. It stretched the credibility and there seemed to be not an attempt to
35 zero in on really what was the cost of releasing that area for unrestricted

1 use. So, it tended to bias the decision towards something lesser than
2 unrestricted use.

3 That is extremely bothersome, because it seems like as Jeff Breckel from
4 Washington, you guys have the opportunity, if you come with the right number
5 and the right proposal, to hit a home run and have tens or thousands of acres
6 released for unrestricted use up at Hanford. Yet the proposal seemed to be
7 deliberately slanted either to bias against selecting unrestricted use or to
8 go with something less than unrestricted use.

9 We heard from the research staff about consent decrees that are in place
10 now with pump and treat operations that we know are not working as they were
11 promised to work. Yet, nobody is doing anything to stop and to reopen the
12 consent orders, to say, hey, this is ridiculous. We are wasting money.

13 We have begun to look at DOE orders that seem to suggest there may be a
14 morass there that could be made more efficient. Finally, there have been
15 private admissions made to some of us by staff from EH that they have a
16 difficulty or extreme reluctance expressing concerns up their chain of command
17 or to other parts of EM about problems that they see.

18 These all seem to touch on matters that I think you value highly of
19 credibility and on where the money should be spent most wisely. Yet, I felt
20 that the Committee has never really been invited to jump into these areas and
21 try and offer you some solid suggestions as to how operations might be
22 improved.

23 MR. GRUMBLY: Well, I'm certainly open on all of those areas,
24 particularly if we can frame them appropriately and staff them out.

25 One of the big problems -- and it goes back to where we were before in
26 terms of getting independent advice. I don't find it particularly useful,
27 having been in your positions before on advice, to sort of get a book, fly in
28 and spend two hours on the plane, read this stuff, shoot off my stars into the
29 mist, get on the plane and go home and feel like I've really accomplished
30 something. What I would much prefer is that we take any one of those issues -
31 - and this comes back all the way back to the first questions that were raised
32 about how we put things on the agenda.

33 We should provide some time, I would say, at the end of each meeting to
34 raise major issues that the Committee wants the staff to deal with during the
35 succeeding two months or three months or however long it is before the next

1 meeting. So, we can come to you fully staffed out beforehand, make the kind
2 of presentation with the data in front of us and you also have the data in
3 front of you, so that we can wrestle our way to some kind of conclusion on
4 these things.

5 What I want to do is get out of -- and I'm not saying that you've been
6 in, but to get out of the usual advisory committee mode in which people feel
7 free to say any damned thing that they choose, which is fine, but don't really
8 feel -- you never really have engaged with it at the level of technical detail
9 that is necessary to actually make a decision. We can't deal with everything
10 obviously.

11 What I would like to do is have the chairs and the Committee wrestle
12 with what is the appropriate level, first of all, of the issue that we ought
13 to deal with. For example, the issue of costs at a particular site. Do we
14 want to deal with that on a site by site basis? Maybe sometimes there is a
15 project that is big enough that warrants that. Do we want to deal with that
16 as what are the generic problems that keep us from doing that, from doing
17 better?

18 MR. KUCERA: Exactly, I don't think we want to be awash in minutiae.

19 MR. GRUMBLY: Yes.

20 MR. KUCERA: We won't do you any good and it would be a waste of our
21 time. But some of those things might prove to be symptomatic of a problem
22 that you need to fix.

23 MR. GRUMBLY: Absolutely, absolutely.

24 The issue of how much it costs us to do our work, I mean, forget about
25 the budget problems. Even if we didn't have a budget problem, as far as I'm
26 concerned, it's a taxpayer scandal how much it costs us to do our work. It's
27 not because we don't have good people. It's because we don't have the right
28 incentives in this system. How come we keep getting estimates that are four
29 times greater than what it cost our colleagues out in the private sector to do
30 work?

31 We need to understand and work on those kinds of issues and we need to
32 bring those kinds of issues to you. I regard it as, first of all, my
33 responsibility to bring those kinds of critical issues that I know to you and
34 I would regard it as your responsibility and, you know, we will get into a
35 loop on this, obviously. At the end of or at an appropriate point of each

1 meeting to suggest, okay, we want to discuss the following two issues in depth
2 at the next meeting, along with whatever you want to bring to the agenda. I
3 think that is perfectly legitimate.

4 In fact, not just legitimate, but if we can get into that kind of spirit
5 where we feel the obligation and responsibility to not just come into the room
6 and respond to criticism, but to work issues with you, that's the kind of
7 relationship I want to have with this Committee. I don't think that
8 compromises the independence of the Committee either to do that, either
9 individually or collectively. Again, we are not asking anybody -- nobody is
10 going to get up from this table, at least, I'm not and I don't think any of
11 our staff are and go out and say we did something because Ron Kucera told us
12 to.

13 Nobody is ever going to put on to you as individuals the responsibility
14 for the public's business that Secretary O'Leary and I are sworn to do. So,
15 you guys should always feel free to speak absolutely your minds about what the
16 agenda is.

17 CO-CHAIR COSTLE: Something else that you said, Ron, triggered some
18 thoughts.

19 One of the things that I remember at EPA that I really miss -- I'm not
20 aware that they have fixed it even today. When you run a big government
21 program and you are trapped by the agenda of dealing with the Congress and
22 everybody else and trying to frame these issues and decisions, it is often
23 very hard to know exactly what the hell is going on out in the field. To the
24 extent that we are out there seeing things, we do need some system, systematic
25 way of feeding these things back in a way that allows Tom to stay in touch
26 with the reality of what is happening out on the ground, too.

27 I think it is partly maybe a problem of large organizations and
28 particularly those who have to work with very controversial issues. I think
29 there is a role that we can play in terms of creating a feedback system to say
30 that, we saw some things that we want to feed in at the appropriate level,
31 something as an alligator that is out there that we'd better put some time and
32 effort in to try and understand better. It may be symptomatic of a larger
33 problem. I think that could be a very interesting thing for us to do,
34 frankly.

35 Jeff.

1 MR. BRECKEL: Tom, I am very pleased to hear your notions on how this
2 board can serve as or this Committee can serve as a board of directors. I am
3 very pleased with that direction. I think it is critical.

4 Clearly, we all have a great deal at stake in this endeavor, to clean up
5 the DOE facilities and insure a safe and healthy environment for ourselves and
6 for future generations. I think the notion here of a partnership is a good
7 one. I don't think, as you have characterized it, it is one that jeopardizes
8 our individual interests. I think what we all have to realize is that, we
9 have to bring those individual interests together and all be working for
10 success, because I think very clearly from our perspective, DOE alone cannot
11 succeed in this endeavor unless there is that level of support in bringing the
12 various interests together to push in a common direction.

13 I want to note very simply and very succinctly here that I think this is
14 the right tack and I appreciate it.

15 MR. GRUMBLY: We'd better get out of the room for a break on that note.

16 CO-CHAIR COSTLE: Why don't we take a quick five minutes so people can
17 get coffee. Then we will come back and get going with Jim.

18 Shira.

19 MS. FLAX: I'll just be very brief.

20 Doug, I felt you brought up a very good point in response to Ron. I
21 just want to mention that, that very point is addressed in a memo that Dick
22 Bangart wrote earlier. Maybe at some point, we can go back to that memo and
23 look at it in terms of the work of the Committee.

24 CO-CHAIR COSTLE: Good.

25 Okay, a five-minute recess.

26 [Recess]

27 CO-CHAIR COSTLE: May we reconvene, please?

28 [Pause]

29 CO-CHAIR COSTLE: At this point, could we ask Jim to come up and I'm
30 going to stress the admonition, using the prerogative of the chair that, what
31 we really want to do is get a tight presentation. So, we have an opportunity
32 to really interact and nail you, as somebody just said.

33 Tad is feeling like Doug now. He's no longer a bureaucrat, right.

34 MR. GRUMBLY: That doesn't count against your time.

35 I think for those of you who know Jim Werner, he doesn't need any intro-

1 duction, but there may be some of you who don't.

2 Jim was recently appointed by the Secretary to be a Director of
3 Strategic Planning and Analysis for EM, Environmental Management. Prior to
4 that, Jim worked with the Natural Resources Defense Council and prior to that,
5 was with ICF, Incorporated. Jim is an engineer, who is really that
6 extraordinary kind of an engineer who can think with both sides of his brain.

7 CO-CHAIR COSTLE: Have you ever been set up that way before?

8 MR. GRUMBLY: Let me just say that, I think that I am -- and I express
9 this as the I, because I feel very strongly. I am extraordinarily thankful
10 and grateful to have his talents working with us at a critical period in this
11 program. He just brings an enormous amount to it.

12 He also has some very complex responsibilities, much of which involve
13 helping us to do some real planning for this program. Part of that is how to
14 factor in all the different requirements that the Congress and everybody else
15 is putting on us. So, I have asked Jim to kind of bring us up to date on
16 where we are in terms of requirements and planning.

17 Jim.

18 MR. WERNER: Thanks, Tom. I appreciate that.

19 I'm going to stand up here so that I'm not speaking with my back to the
20 audience, since it is supposed to be about public participation. I don't know
21 if this will help with the audio system. The sound is on. I don't know if
22 you folks can hear up here. It sounds like a pirate ship off the coast that
23 is broadcasting, this scratchy broadcast during World War II.

24 I wanted to add my thanks to Al and Doug Costle for serving. I realize
25 there may be some concern about the interactions and stuff. As many of you
26 know, I am sensitive to the concerns about the advice of the Committee being
27 taken on its membership.

28 Nonetheless, I have been a long time student of EPA for my entire
29 professional career and I have watched both of these guys struggle mightily
30 trying to figure out and advance the public interest in extraordinarily
31 difficult times. At least for me, it has been sort of a model to seek after
32 to see how very difficult it is as a practical matter trying to figure out
33 what the public interest is and then trying to advance that. It sort of
34 brings down to reality some of the ideals that I got in the business to
35 advance. Hopefully, I can do half as well. It is a pleasure to receive

1 advice from you guys and now I get an opportunity to work with you more.

2 As I mentioned, this is not the first time I've done a presentation
3 before the EMAC. The first, of course, was at the first meeting and the world
4 has changed a lot since then. Of course, the world had changed a lot in the
5 year before that first meeting, too. At that time, there was a Soviet Union
6 and the Cold War was still more or less on.

7 Now, at this meeting, a lot of similar things have changed in the past
8 year here. It's like getting back on to the soccer team, too, being part of
9 it together.

10 There are three things that I guess I wanted to talk about today. I'm
11 glad to learn where one of them came from, about the deliverables, which is on
12 agenda. That is really the second thing.

13 The first thing is, what is this new office that I have been asked by
14 Tom to head up, the Office of Strategic Planning and Analysis? I'll explain
15 that and then I will discuss the deliverables part of it. Then thirdly, some
16 thoughts I had on new issues or things, ways that the EMAC might contribute,
17 because the EMAC, in my mind, will feed directly into many of the broad cross-
18 cutting things. At least, that is one way to operate. That may stimulate
19 some discussion. That is what I hope to reserve some of my time for, thinking
20 that this will be somewhat brief.

21 Okay, the first thing, as Tom mentioned, it is called the Office of
22 Strategic Planning and Analysis. It is a term that is sort of funny, because
23 the office, at least, initially is intended to be organized so that we have
24 strategic planning, analysis and then there is going to be a policy office
25 here and then a planning office. So, why is it not called policy and
26 planning? Who knows. The point is, that is the way we initially intended it
27 to be laid out.

28 Are things going to feed right up like that? No, this is an office that
29 will be dealing with issues that will cut across all of that. First of all,
30 we will be an office that does a lot of the interactions with dealing with
31 Congress, since that is where the policies are made right now. We will be
32 helping to interact on the budget as well as a lot of the authorizations
33 issues that come up and help devolve the policy, working with the program
34 offices, of course.

35 The budget, of course, may be the biggest thing that happens dependably

1 every year that we have to deal with them on. That, I think, reflects the
2 view that budget is policy, in a sense. Policy is reflected through budget.
3 So, we need to control and understand that and make sure that we know where
4 the money has gone. That is one thing, obviously, Congress has been asking
5 about.

6 We will also be helping to deal with the governors and my friend Ben and
7 Jeff. I've already been out talking to some attorney generals who, in some
8 cases, are independently elected and have related, but not necessarily
9 identical interests, State agencies as well. There is another office that has
10 been established under Tom's new leadership called Public Accountability. You
11 will hear from Cindy Kelly, the new director, tomorrow, as I understand, on
12 that.

13 So, that is one thing. We will be interacting with other policymakers
14 outside the Department. We will be helping develop policy. That means really
15 helping develop it. Tom is the policymaker. Tom is the boss. We also have
16 to work with the people who are faced with the prospect of implementing the
17 policy, that is, all the program offices. So, it will work really in a sense
18 like a matrix management, which is where I come from in the private sector, in
19 working the issues. That is, bringing the facts in and not having the program
20 offices be constantly bombarded with getting jerked around by Congress or
21 anybody else who might call in or having to work through on an ad hoc basis
22 this cross-cutting issues, to get some of the facts up and to make sure they
23 are accurate and work on developing policies.

24 Of course, we all know that there are things coming at us down the
25 pipeline right away. A bill is already in the hopper for major reforms to the
26 Atomic Energy Act. There are proposals to amend the Clean Water Act. We are
27 dealing with issues perennially like indemnification. Superfund is an issue
28 that we will be interacting with as well that will have an impact on us over
29 the next year.

30 What is our policy going to be and how should we develop it or how
31 should we respond to it? How do we make policy? That is something that our
32 office can help with.

33 In my mind, really the most valuable thing is developing tools,
34 developing factual tools. That relates to the interaction between the
35 planning and the policy end. You have to factual and analytical tools being

1 built up to help inform the policy development so we really understand
2 clearly. As Ron expressed some concerns, if you don't have good facts, you
3 are going to be skewing policies one way or another and not building
4 sustainable policies or sustainable activities and operations over the years.
5 So, we need to make sure our analytical tools and facts are very rigorous and
6 solid.

7 Finally, the office will help with interactions between programs, so
8 that that is not simply ad hoc and between government agencies, between DOE
9 offices. As many of you know, we are now struggling with the issue of
10 returning foreign spent fuel of U.S. origin containing high enriched uranium.
11 That is an issue that cuts across traditional DOE programs as well as other
12 government departments. We need to identify when things like that have to be
13 bucked out and not just dumped over on Jill Lytle's lap as the Deputy
14 Assistant Secretary and say, deal with it. She can't. It's bigger than that.
15 It is sometimes bigger than even Tom Grumbly, believe it or not.

16 Larger issues.

17 So, that in a nutshell is how our office will be shaping up. I will be
18 happy to answer questions about that, because that is a very quick thumbnail
19 sketch. The fact is, it is still developing.

20 MR. GRUMBLY: Can I just interject something here at the moment that Jim
21 would be too modest to say? That is that, Jim's role -- and the rest of the
22 senior staff has heard me say this -- is really to be the option four person.
23 What I mean by that is, traditionally in big organizations and all of you who
24 work in big organizations know this, I think. You tend to get option one, do
25 nothing. Option two, drop the bomb and of course, in our case, that is
26 sometimes literal.

27 Option three, do what we want. You need somebody in a group of people
28 whose main job is to develop option four, which is a creative thinking outside
29 the box kind of an option. Most of the time, of course, I would say 75
30 percent of the time, you're going to end up doing what the rest of the staff
31 wants to do, because there are good reasons for why policies have been
32 developed over time. It is really important to get that kind of external,
33 internal, all together look at a problem.

34 I would really urge each of you to stay in close touch with Jim as you
35 have ideas about what we ought to do, because he will be a very good way, not

1 only because he used to be a member of this Committee, but a very good place
2 to plug into the organization for whatever ideas that you want to convey.

3 MR. CHRISTEAN: Tom.

4 MR. GRUMBLY: Yes.

5 MR. CHRISTEAN: Almost a member of this Committee.

6 MR. GRUMBLY: So, instead of taking your advice, we just made him a
7 member of the staff. As Al was saying, it gives all of us great pleasure who
8 have known Jim for a while to see him as a bureaucrat.

9 MR. WERNER: Hopefully, nobody in the back can read this, but there are
10 some numbers for the Committee members.

11 DR. FREUDENBURG: Area code 202?

12 MR. WERNER: Yes, it is Washington, D.C.

13 DR. FREUDENBURG: I hope that wasn't an FTS number, because that does me
14 no good.

15 MR. WERNER: No, I find that sometimes offensive when you give out FTS
16 numbers to non-federal people. I try not to offend folks here.

17 I think a lot of the advice we can get will be informal. Some of the
18 best advice is over a cup of coffee or a beer or a bourbon or something. I
19 welcome the opportunity to do that and to hear some of the concerns about
20 things in the real world. One thing I have found is, working inside the
21 bunker at the Forrestal Building where sometimes we squint outward, it is so
22 hard for people to get in that, you really do lose touch. You really need to
23 hear from people, unfiltered, right through it.

24 You know, a colleague, Lisa Crawford, I'm sure will give us some
25 unfiltered feedback. There is nothing that can beat that about what is
26 happening in the real world out there. So, hopefully, that will continue. I
27 have no doubt it will from my old colleagues here.

28 Okay, the next thing I want to talk about is deliverables. What I have
29 handed out here is a sheet that lists some of the many paper deliverables. I
30 think I am going to have a station identification here for our program that,
31 this ain't the real deliverables. The real deliverables are reducing urgent
32 risks, dealing with worker safety, dealing with stakeholders and improving
33 partnerships, getting ourselves in control, developing technologies. Those
34 are our real products. So, let's not lose sight of what the real products of
35 this program are and what it is that we are spending the money on.

1 Nonetheless, in the government, you produce a lot of paper. Here is a
2 list that lists some of them. As you can see, we have a whole raft of
3 requirements, of paper that we have to produce in the Environmental Management
4 program. There are 23 separate reports here that we have to produce in some
5 way. Most of them are as a result of statutory mandates. We have nearly a
6 dozen congressional committees we respond to every year at different times
7 with different issues. Sometimes it is like having the old metaphor of people
8 feeling the elephant. Everybody feels a different thing, but not too many
9 people get to see the whole thing.

10 Frankly, we are not good enough yet at seeing the whole thing put
11 together in a very good, rigorous factual way. We could do better at that.

12 Here are some of the paper products. I am not going to spend our time
13 going through the whole list of them. Let me just point out a few things,
14 because we could spend our whole time doing that.

15 Right there are the DOE mail codes, DOE, EM, Strategic Plans. That
16 really is more of a mouthful than folks may realize. The Department of Energy
17 has undertaken a Department-wide strategic planning activity that my office
18 has been tasked with. There is also a separate strategic planning exercise
19 that I think some of you have gotten that Tom actually began even earlier in
20 the year, immediately to get some of the big picture things in order and set
21 priorities for the Environmental Management program.

22 The environmental quality strategic plan as it is called for the whole
23 Department, deals not only with environmental management, but also with
24 environment, safety and health, radioactive waste management and every
25 environmental activity that may be undertaken by any mail code throughout the
26 Department. So, that is the environmental quality one. Tom has begun the and
27 we are actually now implementing the environmental management strategic plan.
28 There is a lot of overlap. I don't think that is necessarily a bad thing. We
29 just need to be aware of it.

30 In fact, that may be one of the shifts in ways of thinking, whereas,
31 under a Defense mentality, compartmentalization was good for national security
32 and classification. Doing environmental things, connections are often a more
33 important thing that you have to make. It is a whole different way of
34 thinking about it. So, that is one thing that you may not be aware of.

35 The second thing right at the top is the five-year plan. As you know,

1 that is something that was begun in 1989. It was later put into statute.
2 Well now, many of the requirements for the five-year plan, that is, to lay out
3 some budget numbers, to indicate what the Department is doing, are being done
4 in other ways, such as, annual report and a so called baseline total program
5 cost. So, it may not make sense to be doing something that was the five-year
6 plan in the past.

7 However, we still have this statutory requirement. So, that may be one
8 thing that a group like this could help us with, to sort out and to help go to
9 bat if we don't think that is a good idea to spend our resources doing this
10 duplicative things. It is sort of a vestigial thing in evolutionary terms
11 where you retain things that no longer have a function. Government is more
12 like a tar baby than a vestigial, evolutionary thing.

13 In terms of the broad brush of this chart though, I want to point out
14 that this first Office of Planning, which is now the so called EM-14 mail code
15 which is under Ken Glozer's shop right now, much of that responsibility will
16 be coming over to the Office of Strategic Planning and Analysis over here.
17 So, many of those goals and a few of the people will be coming over.

18 So actually, if you deal with DOE, you know that there are mail codes.
19 The new mail code is EM-4, but I hope you don't get caught in that. I think
20 we should start a fund, too, for people using too many mail codes. We could
21 probably make some good contributions to charity this year.

22 The Office of Planning only does part of the real planning. I think
23 that realistically we need to acknowledge that, in fact, the real planning is
24 undertaken in some cases by program offices. What we don't want to have is a
25 sort of Stalinist planning mentality where you have central planning
26 Headquarters controlling everything. Well, that is just baloney. If it
27 doesn't have a real impact, we're just not going to be doing that kind of
28 planning any more.

29 We will try to do some certain cross-cutting planning and we will try to
30 keep track of the other planning exercises that are going on to avoid
31 duplication. We are not going to try to set up this Gosplan on the Potomac
32 here.

33 The other offices do a lot of work and planning. They are the ones with
34 the technical responsibilities and the wherewithal to not only do the planning
35 but have an impact on the real world. Again, that is the real deliverable, is

1 to produce some of the environmental, risk reduction, technology development,
2 financial management results that we all want, not just produce paper. The
3 minute we start thinking these are our real deliverables, we are lost. So, I
4 hope you will call us on that and make sure that doesn't happen.

5 If you have questions about this, let me know. I don't want to spend a
6 lot more time about it.

7 The third thing I wanted to talk about is --

8 MR. GRUMBLY: Jim, excuse me just for a second.

9 Can I get you spend maybe one minute or two minutes to talk about the
10 total program estimate.

11 MR. WERNER: Sure.

12 MR. GRUMBLY: I do think that it is important that people understand the
13 task that we have been given by the Defense Authorization Committee and how
14 that relates to the issue of whether we continue to have a five-year plan, as
15 it has been traditionally known.

16 MR. WERNER: My pleasure.

17 MR. GRUMBLY: This is something that I think we can maybe fruitfully
18 talk about after Jim's presentation.

19 MR. WERNER: It provides a useful segue into the next section about
20 issues for EMAC that I wanted to get to.

21 The Appropriations and Authorization Committees added some new
22 requirements on to our program. One of the biggest ones is the so called
23 baseline or the total program cost estimate. They asked us to find out, well,
24 what do you think it is going to cost to deal with a lot of the environmental
25 management responsibilities for the next 20 years or out into the indefinite
26 future. In the statute, you will see that there is a specific requirement to
27 do an environmental restoration cost estimate and then later, waste management
28 and the technical development that is due to the rest of the program, in other
29 words.

30 When you boil them all up, it says, what are you going to spend on
31 dealing with the legacy of the Cold War in the future? As many of you know, a
32 similar estimate was done in 1988 and the rough numbers were environmental
33 restoration activities would be the lion's share of it. Waste management
34 would be about a third to 40 percent of it. Then there would be some other
35 requirements, transportation programs, direction.

1 Well, is that still valid? The total numbers there were roughly 100
2 billion. That was the November 1988 Needs Report. There was also a Glen
3 Report done in July of that year. There was then a 1987 report done by
4 Defense Programs. Well, is that what we are going to do? Is that what is
5 going to really cost? What are the options that are going to affect those
6 cost, I think, more importantly?

7 It's not going to be just a single point estimate. It is going to be,
8 given these options, given these different strategic alternatives for running
9 this whole program, what is the total program cost going to be? That is
10 something that Congressman John Spratt from South Carolina was keenly
11 interested in. There is a feeling that we are just putting money into it and
12 they are not sure when the hole is going to be filled up, because they don't
13 know how deep the hole is. They were just pouring money and we wanted to see
14 how far we are getting to it.

15 So, if over time you are spending money on it and you are, every year,
16 accumulating more and more money, does that mean that you are in the year 2020
17 going to be there and, therefore, you have that much more to spend or is the
18 number way up here? Right now, there is really no sense of that or what our
19 alternatives are for changing that or changing the slope of that, the speed at
20 which you reach it.

21 There is some question about, well, really, how valuable is that? After
22 all, the number is just going to be shot in the dark. Well admittedly, the
23 number is at best extremely uncertain, but it does provide an opportunity to
24 look at the different options that are before us, as I say. I think that
25 really is in a sense the most interesting alternative.

26 So, in early 1995, when all goes well, we are going to launch on the
27 world another number. Right now, we have this number from the Department of
28 Energy. It is a few years old. *U.S. News and World Report* says it will be
29 \$300 billion. One thing I can tell you here today is, it is not going to be a
30 single number. We hope to do some rigorous analysis to look at what our
31 options are in the future and we welcome your input as we develop that and
32 I'll be coming back at another time, hopefully, to get that sort of input. We
33 are really just gearing up for it now.

34 Now, this is the total program cost estimate. As I mentioned, there are
35 other requirements by the Appropriations and Authorizations Committee. One of

1 the other interesting ones that I think Cindy Kelly may mention or you can
2 draw out of this is and that she is working with Ken Glozer and myself on
3 doing an annual report, answering the question, where is the money going. On
4 an annual basis, Congress wanted to know, where did the money go last year?
5 What did we buy for our money? Where is the money going to go next year, as
6 we invest the money? Do this in a way that it is understandable to people.

7 Right now, as you may know, we program by site only occasionally and
8 sometimes it is tough to get those numbers. Well, let me back off, because
9 actually that is an important part of what I want to do. I'll just try to
10 stick to my program here a little bit.

11 I've already put up the total program cost estimates we had in 1988. I
12 want to talk about some of the issues that EMAC could help us with. I have
13 sort of alluded to one already. Let's start out and ask: What does DOE do
14 with its environmental money right now? This is the one point that we thought
15 the money would, mostly environmental restoration, a little lesser so, but a
16 big chunk to waste management. Where is the money really going right now?

17 Budget is policy. Remember, that is in our mantra. Right now, about
18 40, well, roughly 50 percent is going to waste management, to that mail code
19 called waste management. Then a smaller amount, roughly a third again, is
20 going to environmental restoration. So, that is FY '94 in rough numbers. It
21 is sort of reversed from the long term spending terms and then we have this
22 other area that nobody really anticipated back in 1988, called facility
23 transition, the Pacman that could eat us all if we don't watch it, that we
24 need to be aware of.

25 This does not mean we are doing decontamination, decommissioning. This
26 facility transition is just to stabilize facilities, to manage, to in a sense,
27 babysit, to bring them to a safe, stable shutdown. Willis Bixby will be
28 talking about that later as we march through the mail codes in the next day or
29 so. It sort of like a very seasonal thing. Instead of the Dance of the Sugar
30 Plum Fairies, you have the march of the mail codes.

31 MS. FLAX: Why are the actual expenditures fleshing out this way?

32 DR. PAULSON: Why don't you finish and then let's get a round of
33 questions.

34 MR. WERNER: Yeah, let's, because that's not something that I'm going to
35 be able to answer alone. I think you guys can all get that from others. Then

1 we have, you know, roughly a half a billion dollars going into technology
2 development, a huge amount of money for any agency, and one we vitally need to
3 get some results from, or else the rest of this is not going to really work
4 out.

5 So where is the money going? I think that's something folks need to
6 understand, and I think a lot of people who have been on this EMAC a while now
7 understand that.

8 But anybody who's new to this Committee, anybody who's new to this
9 Department, and thinks somehow that this is a cleanup program--this is like
10 Superfund and the Federal Government, it's not correct. This is not like
11 Superfund and the Federal Government. Very unique about where we put our
12 money. And within this waste management program, as you'll hear at least
13 later on today--I understand there's a group coming in to talk about concerns
14 about the Spent Fuel Management Program. We're putting our money not into
15 Superfund and cleanup sorts of things, but rather investing--at least intended
16 to be invested into a nonproliferation program, fighting the proliferation of
17 fissile material throughout the world.

18 That's where the money really is going. I mean, that's what we do with
19 it.

20 Well, how should this be organized? Right now, we have mail codes, and
21 in fact in waste management we have what many regard as the biggest cleanup
22 program which is the Hanford tanks.

23 But many people don't realize, this is actually anything that is called
24 "waste management." You know, how does this relate to dealing with waste,
25 cleaning it up, the related facilities? Is this the best way we should be
26 organized?

27 I'm not here to advocate, by the way, any reorganization, just to make
28 that clear. I'm just suggesting to you that this is the sort of level that I
29 think could be useful for an outside independent group like yourselves to
30 think about.

31 Sometimes it seems like we're organized in sort of functional ways,
32 where you have one group sort of doing cleanup, another group handling waste,
33 and another group stabilizing sites.

34 But if you're out there in the field--and I've heard this, and I've
35 worked previously as a contractor in the field--it's very difficult and it may

1 be worth reorganizing because of it, because in the field you drive by a site
2 with a fence behind it and you see one site.

3 But when you look at the books, it's not one site, it's all split up by
4 mail codes according to waste management and biostration facility transition
5 at most of the sites, with a couple of exceptions you'll hear about.

6 Is this the best way to organize? I mean, sometimes it's a little bit
7 like deciding you want to have a steak dinner, and instead of just buying a
8 steak you have to go to one store if you're in the field to get the meat,
9 another one to get the bone, another door to get the gristle, and you put it
10 all together that way. Sites are really not organized in some cases like
11 that; they're very much more integrated.

12 But on the other hand, there are some very important cost-cutting
13 benefits of organizing this way. So should we organize by site in terms of
14 our budget and policies or continue to do it in this functional way?

15 What are some of the new directions might be another question EMAC would
16 look into? Like a board of directors for a corporation, sometimes board of
17 directors make large strategic decisions about new markets you want to get
18 into.

19 Should Loran get into domestic computers? Should General Motors get
20 into train design? Should environmental management get into nonproliferation?

21 We are? Is that where we're going to make a big splash? Because to
22 meddle in that area is a very complex thing and you need to do it right.

23 How much of a role should we have in technology development? It's
24 clearly extremely important and maybe we shouldn't depend on other people to
25 do it.

26 But there are other people who are now playing in the game. There's a
27 big technology development effort in other parts of the Department. There are
28 things going on in the Department of Commerce.

29 We need at least to be cognizant of that and make sure we are getting
30 results from our Technology Development Program, because it's just too
31 important. You know, that's really our seed corn for the future.

32 And finally, I guess I would suggest that the EMAC consider focusing on
33 issues, and I am pleased to hear there's already some discussion about doing
34 exactly that. To just really grab a-hold of one issue and wrestle it to the
35 ground and rigorously work it through with this.

1 That my experience mostly was the private sector, and it's interesting
2 to be introduced as being from NRDC since most of--a lot of enviros only know
3 me as a corporate, you know, consultant, for most of my career, working for
4 whoever would pay.

5 But that experience, and working with NRDC I guess taught me that the
6 hardest thing to do is not how to do technical tasks, but whether to do them.

7 That is, picking what the major issues are is very much the hard thing
8 to wrestle with, because once you figure it out most of us are good
9 technically in many ways to actually do it. That's really a matter of just
10 following through. But picking what the important things--picking that one
11 thing, that if you can really wrestle that to the ground, the rest of it will
12 flow much more smoothly. That's really the hard task and I ask your help with
13 us to work those things through and we will be bringing some of those before
14 you.

15 And I guess just to close, that the variety that I see in this
16 Committee, knowing you all, is that you can add a lot more brainpower and a
17 lot more diversity than we really have.

18 If you folks think you've got a "white male" problem, everybody thinking
19 along the same way, you know, it's not just here, let me put it that way.

20 And hearing from, you know, the labor point of view, so that we really
21 are sensitive--and I think we are--but we really need to understand the
22 workers who are on the firing line every day, making sure that we don't have
23 cleanup at the cost of worker health.

24 And also, that we deal with the community impacts and the economic
25 impacts, of people's livelihoods that have been there, and understanding that
26 and making that, keeping that before us, and we're trying to make sure it's
27 there. And finally the Indian views, that Russell Jim brings before us, of
28 trying to make decisions and thinking about the implications for seven
29 generations in the future.

30 That's not an easy thing for governments when we have sometimes just a
31 few years before we need to show results. And I want to thank you and take
32 any questions.

33 MR. CHRISTEAN: Glad to have you with us, finally.

34 I would like to ask you a question about--you talked about how budget so
35 affects policy and planning--

1 MR. WERNER: Policy affects budget; that's how I would say.

2 MR. GRUMBLY: Both.

3 MR. CHRISTEAN: Both. It works both ways.

4 MS. WERNER: Both, yeah.

5 MR. CHRISTEAN: Because the guy that's got the money--you know the
6 golden rule.

7 MR. WERNER: Right.

8 MR. CHRISTEAN: You know, one of the things that the Department has not
9 done, that I'm aware of, is use us to help foster a friendlier legislative
10 response to your request. Another way of putting it is to lobby for you.

11 MR. WERNER: I heard that the first time.

12 MR. CHRISTEAN: But I don't know under what rules we are involved.

13 MR. GRUMBLY: Well, I think we can't, we certainly can't formally urge
14 you to do that.

15 MR. WERNER: No.

16 MR. GRUMBLY: I mean what we can--but what I, I think you're really
17 hitting on an extraordinarily important piece, though, and that is--and I
18 suppose that part of it underlies the assumption of why it's even worthwhile
19 having a committee like this, as far as I'm concerned.

20 Well, I think it's great to get--I think it's great to get criticism.
21 All I have to do is open the editorial pages, and you get a lot of that.

22 But I think it's in--it's important, that if you understand--and not
23 only you but the people that you work with--understand the kind of challenges
24 that we're dealing with, that it makes you and the groups that you work with
25 more effective advocates, if you should decide on your own to advocate change.

26 And that is--you know, that's your--not only your right, but your
27 responsibility. And, for example, in a lot of our agreements that we're
28 trying to negotiate or renegotiate--for example, I'm thinking of the one that
29 we just did with the State of Washington. I mean, we are sharing a lot more
30 information--we're about to share a lot more information once it's finalized
31 with them, about budgets, about plans, one, so that they can be partners with
32 us; but two, so that they have an understanding of what it is that we're
33 doing, so that we can work more effectively the legislative part of the
34 process.

35 Because I do share with you, and I know Jim does, the concern that while

1 Tad may be right in terms of the amount of money that's being spent, the
2 perception of most members of Congress who don't have these places in their
3 districts, or senators who don't have them in their States, is that this
4 program is a target.

5 Because they don't get any direct benefits from it. And so it's
6 important that we try to do a number of things on our own such as explaining
7 what we're doing in plain English to people, so that they understand what it
8 is that we're trying to accomplish, so that we can kind of build a level of
9 small "p", political support, for what it is that we think that we need to do
10 in the long-run.

11 I mean, a lot of people think that the Cold War's over and we can just
12 shut these places down. I mean, that's how we're in to this big facilities
13 transition problem which we can talk about a little bit more.

14 So we do need, you know, educated consumers are the best customers, I
15 guess, is--

16 MR. CHRISTEAN: Well, you know, it was mentioned, Tom, in your speech
17 that we should, as part of our function, be--when we agree with what the
18 Department's doing, we should be spokesmen.

19 It seems to me it's one thing to be a spokesman, but some of us
20 represent organizations, are involved in organizations to a different degree
21 because we're all coming from different places, where we could be helpful.
22 You know.

23 And I think that the--you know, if I wanted to help the Department of
24 Energy, it seems like the best person to talk to almost would be to be
25 informed and know what is needed, and then if I talk to my congressman. I
26 have the right to do that, and obviously we can't put together a formal PAC
27 here--and I don't think we have much interest in doing it anyway because it
28 costs money.

29 But the fact of the matter is that --

30 MR. GRUMBLY: It's also illegal so--

31 MR. CHRISTEAN: Well, that's another thing.

32 MR. GRUMBLY: Let me tell you, we're into--we're big time into being
33 legal these days.

34 MR. CHRISTEAN: You wouldn't make the statement, that's a sea change,
35 would you?

1 But the fact of the matter is I've always wondered about, you know, just
2 the idea, and I guess probably what it is is that if we really understand the
3 issues that they're--that the Department's vitally involved in, we agree, it
4 seems to me, speaking for myself, that I think we ought to be helping a little
5 bit. I always have thought that.

6 But that's one of the things we could constructively do, because if we
7 want more cleanup, and if we want to make sure that everything is done by the
8 numbers in terms of what the DOE has to do, then it takes money to do it. We
9 all understand that and we all understand where that money comes from, and it
10 seems to me that you can't have it both ways, and that is bitch like hell
11 because DOE isn't doing this, this, and this, when it costs money, and we
12 haven't done a hell of a lot to help them get it.

13 MR. WERNER: Let me just--I think we probably need to get other
14 questions--but say that the two are not incompatible, that we need to get our
15 house in order internally, so that we have a good product to sell, and when we
16 do that then people will be more willing to provide the funds for us to really
17 produce results in the public interest.

18 And unless and until we do that, we're not going to do it. This past
19 year, as many of you know, we took a hit on the order of over a quarter of a
20 billion dollars out of our budget from the president's request.

21 And that reflected what Tom has said, that people think this is a
22 target, it's too fat, that we're not producing results in a meaningful way,
23 that really mean anything to people in the future.

24 We've got to do that. We're looking right now towards next year's
25 budget, so the same thing doesn't happen to us again, and doing what we can,
26 and we need all of your collective wisdom as we put our house together.

27 MR. GRUMBLY: Let me associate myself with Jim's last statement which is
28 I think that before the Congress and the president are going to be willing to
29 allocate substantially more dollars to this program over what we have now,
30 that we have to demonstrate our ability to manage what we have better.

31 And one of our, I think our team's objectives over the next 18 months or
32 so, is to really demonstrate that we can get the costs of this system under
33 much better control than we have historically gotten it.

34 And I think if we can do that, I think we have a fighting chance, even
35 in a very tough budget environment of doing a lot better.

1 But until we do that, I think there's going to be a great deal of
2 reluctance on the part of the Congress to appropriate substantially more than
3 we currently have.

4 CO-CHAIR COSTLE: Vicky.

5 MS. DASTILLUNG: I had two things. The first thing I wanted to ask you
6 is you're developing policy. Is there one place that the public can go to
7 read the DOE policy or do we have to look through bits and pieces of all these
8 documents?

9 MR. WERNER: I'm afraid that it depends on what the policy is that you
10 went about. The policy on fissile material disposition, plutonium processing,
11 is not necessarily going to be with us, and that there is one mail code within
12 us that is handling our front on that.

13 I think that our office can provide a clearinghouse for, I guess, if I
14 can offer the whole gamut, are we going to be the place developing it all? I
15 think in conjunction with Cindy Kelly's Office of Public Accountability, we, I
16 think we can--we will be doing that.

17 As I mentioned earlier, and if you look at this sheet, the Office of
18 Planning will not be doing all the planning, but we will be trying to keep
19 track of all the different activities that are going on.

20 That rightfully are happening where the action's happening, which is in
21 the program offices. So we can help steer folks through it but--

22 MS. DASTILLUNG: It'd be nice if you had a list that this policy is
23 located here, and for the public--

24 MR. WERNER: Okay, well, that's exactly--

25 MS. DASTILLUNG: --a list of where to go to find this.

26 MR. WERNER: Did you get this handout that I provided?

27 MS. DASTILLUNG: Yeah, I got that.

28 MR. WERNER: Okay.

29 MS. DASTILLUNG: It's still difficult to know which policies are in it.
30 For the public, it would be nice if it was a little more accessible and
31 understandable.

32 MR. WERNER: Right, especially if you have to call your local site and
33 they go--

34 MR. GRUMBLY: I think one of our objectives with this new annual report
35 concept, which is designed to accompany very hard on to the technical budget

1 presentation, would be to try to summarize the major decisions and actions
2 that either have been--that have been taken with the previous year's budget
3 and that are anticipated with the one that's just gone to the Hill.

4 And we probably won't hit the mark exactly the first year because this
5 is our first, this will be our first attempt and it's going to be due out
6 about the 20th of February this year.

7 But over time our objective is to try to reflect in this annual report
8 the major issue, accomplishments, problems, decisions, that have been made.

9 But I would again say that both Jim's office, as well as--I mean, the
10 specific reason why we established this new Office of Public Accountability is
11 to try to serve as a focal point for citizens to look into not simply EM, but
12 to the Department as a whole.

13 So that if you have a question about--I mean, I recognize that out where
14 you are most of your questions are going to be in the environmental cleanup
15 area, but in other parts of the country there are still questions about, you
16 know, what we're doing on the military side of the fence.

17 But we want to give you a single point of contact to at least begin to
18 look into the agency.

19 CO-CHAIR COSTLE: And it may well be in fact, bring to mind, though, the
20 desirability of having a kind of central clearinghouse person, perhaps on the
21 EMAC staff, who can act as a kind of traffic cop when we've got questions and
22 want to know who's doing what and how do we find out about it. Who do we call
23 in order to get through the mail codes?

24 MR. GRUMBLY: I think as a member of this Committee--

25 MS. DASTILLUNG: Toll-free number, too.

26 MR. GRUMBLY: As a member of this Committee, I think that, you know, you
27 need to have access to whatever we're doing and I would suggest that you look
28 in through, through Glen, who is the senior staff contact, and feel absolutely
29 free to call us and we'll take the 800 number under advisement and see if we
30 can't do that.

31 MR. WERNER: Vicky, one of the ideas I had towards that end was to get
32 folks on to the computer network also. There's a computer network within DOE
33 that many contractors are already part of and you can send E-mail messages
34 back and forth, what's going on, download documents.

35 MR. GRUMBLY: Let me also say again, just to try to continue to advance

1 the director's concept--okay?--I will have a list on my desk of everybody
2 who's on this Committee and you should feel free to call me up personally and
3 I will get back to you within 48 hours max.

4 Okay? So if you personally have questions about what we're doing, feel
5 totally free to call me, okay?

6 CO-CHAIR COSTLE: Shira.

7 MS. FLAX: Well, first of all, it's wonderful to see you again, and
8 again, I'm trying to think about how I will act as a member of this board of
9 directors and with that in mind my notes say that you've raised at least three
10 points.

11 One is a very specific question of what's the best way to organize, by
12 site or by function. And the second one was one of the issues you're facing
13 is new directions such as should something as focused as environmental
14 management get involved in emerging issues such as technology development or
15 even more of an emerging issue, nonproliferation issues.

16 And then the third thing you said is that you encouraged us to focus on
17 issues.

18 What is the best way for this committee to assist you as you look at
19 these and other issues and seek to resolve them?

20 MR. WERNER: Well, I think I've laid that out. First of all, I guess I
21 would like to open it up to hear other people's views about how we actually do
22 that process, too, Shira, because what I don't want to be in a position of
23 dictating--this is what EMAC shall do.

24 I've tried to lay out and balance it as Tom said--the art of gentle
25 persuasion of suggesting some areas without dictating it, because I know the
26 minute I might do that, it could go in the other direction.

27 So I'm not sure of how much I want to get into that. In terms of the
28 three that you mentioned, I guess I want to focus on the third one, and that
29 is just to recommend in general that you focus on an issue and really do
30 grapple with it, and interact with us enough and invest the time to figure out
31 what are the issues to do, not just how--

32 MR. GRUMBLY: Let me just suggest that on the issue of organization, I'd
33 be delighted, if the Committee wanted to, to bring that back the next time for
34 an extended discussion so that we really have a--you know, you all really get
35 a good sense of why we're organized the way we are and what our options are,

1 because I do think that Jim raised a--it's an important and knotty problem
2 about how to organize one of these babies for success, which if the Committee
3 wanted to I'd certainly be delighted to talk about.

4 In addition the issue of, you know, where the money's going, and why
5 it's--what the priorities are, I mean by the time we get together the next
6 time, the '95 budget will be on the table, and we ought to be able to do an
7 in-depth discussion with you about where's the money going, as well as where
8 we would like to see it be going, and see if we can't, you know, have a
9 discussion about that.

10 I mean, to me that's strategy. To the extent that--I mean I really
11 associate myself with Jim's remarks that budget is policy and if you see the
12 sort of directions in which our money's going, you'll have a good sense of,
13 you know, what this program's likely to look at out into the outyears and
14 still do that at a time when you can have some influence over the shape of
15 that.

16 MR. WERNER: Well, and if you see a mismatch, there's a problem. Again
17 I want to emphasize, I'm not advocating a position on that.

18 I'm just suggesting that right now we're organized this way, according
19 to the, you know, the two-digit mail codes, and that that has--there's
20 important reasons why that--and we can get into that.

21 But that there's another interest, that when you look at the world from
22 your individual site, you then have to go shopping around these other places,
23 and Vicky had suggested that some type of a one-stop shopping would help, and
24 that we at least need to meet the interests of both of these dimensions of the
25 matrix.

26 Whatever's decided, we need to make sure that both interests are met,
27 and right now, the organization this way, we sometimes hear complaints that
28 this dimension isn't addressed as well.

29 Does that mean we change it or does it mean we just, you know, focus on
30 that a little bit?

31 MR. GRUMBLY: And yet there are obviously problems that are--I mean this
32 fuel problem, for example, that cuts across the whole system, that if you
33 don't have some way to be able to look at that functionally as opposed to by
34 site, we'll never get on top of it.

35 So you know, there are really some competing, competing ways of doing

1 this.

2 CO-CHAIR COSTLE: Ken.

3 MR. KORKIA: Thank you, Jim, I really appreciate hearing your remarks and
4 as someone who looks at this on a local perspective and a day to day basis,
5 and I really haven't had the mantra, budget is policy, but that's really what
6 has been the focus of my work for the last couple of months in trying to come
7 up with a way to increase citizen participation in the budget process.

8 And I've had the two-year budget cycle up by my wall, I've sliced and
9 diced it, cut it up, pieced it together. I've got the plant to issue me a 26-
10 page thing of everything they do during a two-year budget cycle from the
11 contractor's perspective, and the different deliverables that they have.

12 And it really comes down to the, you know, you have the two-year
13 planning window and there's a lot of opportunity at the front end before the
14 hocus-pocus in Washington, when all the material has to be sent to Washington,
15 goes through DOE headquarters, goes through OMB, and then finally comes out as
16 the president's budget.

17 CO-CHAIR ALM: There's no more hocus-pocus in Washington than there is
18 out in the field, I should tell you that.

19 MR. KORKIA: But you talk to the--right now, it seems that the people
20 who are doing the planning or the people we talk to are planning and the
21 finance people, and they have a totally different perspective on what's
22 happening and how they see budget and planning going on versus somebody that
23 was thinking a little bit higher above the numbers.

24 So if we can find a way to participate above the numbers also, I think
25 that's really where you can gain a lot of--DOE talks about bringing the
26 credibility and the increasing citizen participation--that's really where the
27 need needs to be in having this early participation.

28 So I appreciate the DOE's efforts, at least on the local office, and I'm
29 sure with the Washington office also, that--of allowing us to sit down and
30 think about this. It's been a real pleasurable experience and a challenge
31 professionally to be able to sit down and think about this.

32 So I think that the more ideas that you come up with of having early
33 participation in the budget cycle, the easier it will be when the budget
34 numbers come out after the president's budget, when you start talking about
35 activity data sheets, and it's really a strong learning curve of trying to

1 involve the public and all that, but you know we can really talk about wish
2 lists--

3 MR. WERNER: Okay, I definitely hear you, Ken, about the need for
4 getting in on a budget, and in fact many of us struggled around a different
5 table, in a different hotel, for two years, the Keystone Process, trying to
6 figure out ways of establishing priorities and allocating resources.

7 What we found was that it wasn't a question of which computer model do
8 you pick, but, rather, how can you share information and bring people into the
9 process.

10 And it was a very intricate process for doing that laid out in the
11 Keystone Process, the Department signed off on it, and many other groups on
12 December 15th of last year, and frankly we're still struggling with
13 implementing that, and all of your help with doing that and thinking above the
14 numbers, and I'm glad our new colleague, Ken Glozer is here, who is, you know,
15 helping work with, I think an extraordinarily important system--the Progress
16 Tracking System--to add some transparency to it.

17 Although there are some things we've got to deal with about the
18 legitimate rights of OMB that we not be disclosing certain numbers before the
19 president's budget is released.

20 So how do we meet that legitimate need, but also address the very real
21 problem we have of working up budgets with people to some extent.

22 So thinking above the numbers may be a good term to use, and we can--

23 CO-CHAIR COSTLE: We're running a little tight on schedule, so let me
24 take a couple more here and then we probably ought to move on or we're going
25 to lose our agenda. Jeff.

26 MR. BRECKEL: Thanks. I think going back to the discussions as to what we
27 can do as individual parties to help DOE along I think very clearly, to the
28 extent that we can come to agreement, or focus in on specific mutual interest
29 and goals, I think each of us has a certain ability to influence the decision-
30 making processes, particularly in the congressional arena.

31 With regard to the dollars, which I think are a good indication here as
32 to what's going to be a major factor in influencing this program, I think as
33 Tom noted we've, I think, reached an accommodation as to how we can work
34 together more closely in Hanford to address that in terms of planning, trying
35 to establish some common expectations between DOE, the stakeholders, as well

1 as the regulators, as to what needs to be done. That will be reflected in the
2 budget.

3 We close that loop as well with an initiative to reduce costs and a
4 commitment by the regulators and DOE to reduce costs at Hanford by a billion
5 dollars over the next five years, not only at the administration and
6 management that DOE does at the site, but also ways that we can regulate
7 regulatory processes to cut time and get work done on, on the field.

8 But what I really wanted to do, Jim, is comment on this piece of paper
9 that you have here, and it brings back a phrase that used to haunt me in
10 several positions earlier in my career.

11 And that was: Help me before I plan again.

12 MR. WERNER: Right on.

13 MR. BRECKEL: Having been involved in the five-year planning process for
14 a number of years, it seems to me the planning processes oftentimes become an
15 end to themselves, and I sometimes wonder if that's not what we've done to
16 ourselves.

17 I've looked at and been involved in many of these legislative
18 initiatives, you know, or directives for certain reports and there's a great
19 deal of commonality to all of them.

20 I mean there's overlap here. You know, there needs to be some better
21 way to define what it is you're trying to achieve in your planning and
22 reporting processes, to consolidate those requirements, to quit wasting time
23 and resources on plans that are so cumbersome to administer and develop, that
24 by the time you issue them they're out of date and serve no useful purpose.

25 MR. WERNER: Jeff, you know you're preaching to the choir. The whole
26 intent of handing this out was sort of like distributing loaded weapons to our
27 allies and we're going to be--

28 MR. GRUMBLY: But you know, let me just tell you that it's a reality, in
29 terms of dealing with the Congress, having to deal with them for the first
30 time in a while this year, and this is not meant as really--this is not meant
31 as criticism for the people in Congress because everybody who came up with any
32 of these new ideas feels very strongly that they're producing something that
33 will be helpful to us.

34 Helpful to increasing the amount of support that we get and there is an
35 interesting phenomena as a--you know, someone who's in my position. As

1 everybody knows you only have a limited amount of capital to play with and
2 fighting somebody's idea for a study is not my idea about how to use up the
3 capital that I have.

4 So you get into a position a lot of the time of basically saying unless
5 I really hate what somebody's trying to do to us, basically kind of going
6 along with the program, and I think the only way out of that, to me, is to try
7 to come up with some kind of a reasonably good performance on some of these
8 performance plans.

9 And then basically go around and say okay, we've finally got something
10 that seems to work for us, now let me get rid of all these things.

11 But until we can kind of come up with some subset of this that actually
12 works, and informs people appropriately about what we're doing, we're going to
13 keep sort of getting new things imposed on us.

14 MR. BRECKEL: And I recognize that. I guess what I'm urging is that when
15 you see these new requirements coming up you find some logical way to
16 integrate them into your planning process. I mean, you've got a method out
17 there, you're building a database, being able to, you know, to respond
18 through, you know, existing reports or existing data that you've collected
19 rather than establishing new processes and mechanisms out there that simply
20 drain or dilute your ability to get your job done.

21 MR. WERNER: We hear you, Jeff. Okay.

22 CO-CHAIR COSTLE: Let me just make a call for--I mean we'll go around but
23 we're already now five minutes over on this session, so everybody kind of
24 target their comments. Russell.

25 MR. JIM: Thank you, Mr. Chairman. I would like to embark, if I may, on
26 a recommendation here that, you know, of all the things that we've been
27 discussing, I appreciate just about every word that is spoken here, all in
28 relation and aiming at trying to establish a methodology to resolve a national
29 problem.

30 And in my realm of the world, as I'm faced with so many things here
31 throughout the history, I see that there is room for representation in the
32 hierarchy of the Department of Energy, such as an indigenous person,
33 assistant, sitting up here, that is representative of someone that really
34 knows the sweetness of life and the terribleness of it.

35 And so having--let me reflect on the Assistant Secretary of the

1 Interior; that's a figurehead; he doesn't make any decisions.

2 Having the Office of Intergovernmental Affairs represented who is not
3 here, not fully listening to what is going on here, and how that office should
4 be integrated with yours, or whomever's office, or any office that could be on
5 this, this list.

6 It behooves me to attempt continuously to elevate the concerns of the
7 indigenous peoples here to really be part of this whole program.

8 Again I reiterate, we can contribute. It's far too often that we have
9 to resort of other methods, in desperation, and I wouldn't want to see that
10 continuously go on in the future.

11 Based upon what you have done with the State of Washington, you have
12 negotiated with them and other states. You could do well to do with some of
13 the Indian nations, also especially those that are directly affected by a lot
14 of these facilities across this country.

15 Congress and everyone has to realize that this is a double-edged sword
16 of understanding. They don't fully understand the indigenous peoples; they
17 don't fully understand treaties; neither does the Supreme Court.

18 And so therefore in the logic of the uninformed they make decisions that
19 are immoral, in my opinion. But yet we have this opportunity, or I have this
20 opportunity to perhaps speak for indigenous peoples, and I request that a more
21 visible means of understanding what is being done from the indigenous world
22 here to preserve, protect the environment, et cetera, health and welfare of
23 the peoples. I hope I'm making myself clear.

24 I don't take, small, the issues of speaking out in this realm.

25 MR. GRUMBLY: Let me see if I can--let me see if we're communicating.

26 What I think I hear you saying is that both at the national planning
27 level--first of all, that at the national planning level you'd like to see an
28 Indian seriously involved with Jim and us in helping us plan the program.

29 MR. JIM: Yes.

30 MR. GRUMBLY: And that secondly, at the State by State level, or in
31 agreement by agreement level, that you would like to have us find a meaningful
32 way to incorporate the governmental responsibilities of the Indian nations
33 into those kinds of negotiations.

34 MR. JIM: [Nods yes.]

35 MR. GRUMBLY: I would like to put that--this is a very serious problem

1 in my view, particularly the second part. The first part I think if we can
2 identify the right person mutually, we can make major progress on that.

3 The second problem of how we effectively integrate the needs of the
4 Indian nations into our government by government relationships is a very
5 complicated problem that obviously we haven't effectively dealt with yet.

6 And I will just talk for 30 seconds about this and the move on. I
7 received a letter, I can't remember exactly which Indian nation sent it to me
8 now, basically complaining--it wasn't the Yakima Indian Nation--complaining
9 about the Idaho process for negotiating an agreement among the Department of
10 Energy, the Navy and the State of Idaho on spent fuel.

11 MR. JIM: Sho-Ban.

12 MR. GRUMBLY: Right. And I also have received a letter again
13 complaining about the process that we used in renegotiating the agreement with
14 the State of Washington.

15 In the latter case I know that the operations manager made a determined
16 effort to try and run a separate, what we call sort of values group, with the
17 Indian nations, so that they weren't just part of, quote, the broader
18 stakeholder community.

19 To try to make sure that we understood where the Indian interests lie.
20 And that wasn't found to be satisfactory.

21 And in the first case we didn't involve the Indian nations in the
22 negotiation, in part because I think we don't have a very good model for
23 having these kinds of negotiations.

24 I mean, I have to say, first of all, having a tripartite negotiation,
25 already it's sort of like having negotiations cubed, I mean they really are
26 difficult, to have them to the fourth or the fifth power we're going to have
27 to think creatively about how to have negotiations budge with that many
28 parties and still try to come to agreement in some reasonable period of time
29 when we're under tremendous pressure to do so.

30 But I hear the problem and what I would like to do is at a future
31 meeting try to find a couple of hour period of time when we can have the right
32 people here, where we can address that problem in a serious intellectual way,
33 because I agree with you that it is a problem we need to deal with.

34 MR. JIM: Thank you.

35 CO-CHAIR COSTLE: Ben.

1 MR. SMITH: I want to follow up on something Jeff brought up and that is
2 how planning get can sort of get in a do-loop sometimes, planners can wander
3 in the wilderness without having a beacon or goal that guides their efforts.

4 And realizing that several years ago the states, through the State and
5 Tribal Working Group, worked very closely with Admiral Watkins, the
6 administration at that time, to set a beacon out there that would help to
7 drive the program, to help to drive the budget-building process, and was going
8 to drive road-mapping, and the beacon was that we were going to deal with
9 these issues across the complex and, quote, clean up the crop complex and
10 realize that is subject to definition, but clean-up the complex in a 30-year
11 time frame, and the year 2019 was to gain some significance then. It was to
12 be a year toward which we would drive our planning and our road-mapping and
13 help to drive the budgeting for this program.

14 That year and that time frame gained some significance in those days and
15 was incorporated into five-year plans and was the basis for road mapping. I
16 think a goal like that and a beacon is highly useful or very useful and can be
17 the thing that, if it is elevated and the beacon shines brightly enough, it
18 can be the beacon that changes the minds that we have to contend with in
19 Congress.

20 Now, I am listening to all of this, and we need to bring this up while
21 we are talking about strategic planning. I want to know whether the beacon is
22 still burning or not and whether the emphasis is still going to be placed on
23 that 30-year time frame and the year 2019, because to me, the discussion sort
24 of loses some of its relevance if we are losing the beacon.

25 MR. WERNER: First of all, I absolutely agree. Maybe I didn't make it
26 strong enough. We are not going to have disconnected planning anymore. Maybe
27 you were out at the bathroom. That is not happening anymore; no Stalinistic
28 planning.

29 MR. GRUMBLY: One thing that I think we are going to do is the next time
30 Jim gets up, is you are going to see a more slimmed down version.

31 MR. WERNER: Right; actually, there is another page to this, but I
32 thought, no, I will hold back and just hand out the loaded weapons today
33 dealing with this, so we can all do it together.

34 Are you sort of throwing down a gauntlet about 2019? Is that what I'm
35 hearing real clearly?

1 MR. SMITH: What triggered it is you wrote 2020 on the board. You
2 weren't thinking about the goal.

3 MR. GRUMBLY: If we ever let the cat out the bag, first of all, the
4 Hanford Agreement now runs out to 2028, I think.

5 MR. WERNER: Yes.

6 MR. GRUMBLY: The fact is, is that what the previous guys came up with,
7 the 30-year goal and the number, they picked them out of the air.

8 One of the reasons why we have to do this total program baseline is we
9 don't understand that Admiral Watkins and Leo, really were looking under the
10 light about the size of this problem. I can't reasonably, and I can't ask the
11 Secretary or the Congress, to know whether 2020, 2030, 2040, 1999 is the right
12 goal until we have done the kind of analysis that gives us some clue about how
13 big this bread box is. So, I think to say that this just a 30-year program to
14 you would be to fib to you.

15 MR. WERNER: It's sort of a new way of looking at the problem, Ben. I
16 don't know if you saw the testimony that Tom did before at the Senate
17 Committee, but we need to face up to some real fundamental facts here.

18 The fact is we don't have technologies right now to tell us how we are
19 going to clean things up. Secondly, we don't have standards so that if we had
20 technologies to use, we don't know when to turn them off or how much to use
21 them, how clean is clean.

22 Thirdly, there are way too many sites for us to deal with right now in a
23 meaningful way. What we need instead is to, acknowledging those facts, move
24 out -- and Tom's, I think, previous statements have reflected this -- to
25 really stabilize the sites, to invest in the technology, and to move on to
26 long-term remedies; but this notion of a clean-up, like it's so many kitchen
27 floors that you are going to mop up, is, just frankly, silly and reflected a
28 misunderstanding of what really the problems were that were out there, not
29 only looking at the light and not seeing the bigger problems, but even the
30 nature of the problems under the light.

31 When you're talking about plutonium with a half-life of 24,000 years,
32 it's just ridiculous to think that somehow you are going to make it go away
33 and wiggle your nose -- baloney. The best we can hope for is stabilizing some

1 of these.

2 MR. SMITH: Realize there are all these problems, but realize the value
3 of a beacon and realize the value of a statement like John Kennedy made -- We
4 need to put a man on the moon and bring him back to earth -- you know, of how
5 do you get to the end of these large intractable problems.

6 Maybe 2019 wasn't the date. Maybe we do need to change the beacon a
7 bit, although that date was set at the time based upon plans that had been
8 made for decommissioning facilities like K-25; and that was sort of the
9 envelope that defined all known plans at that time of what needed to be done
10 to deal with problems in the complex.

11 So, if we need to change the beacon now or a few years later, okay; but
12 let's decide what the new beacon is and have a defining statement about what
13 the nation needs to move to, so that we can help drive the rest of the program
14 in that way.

15 MR. WERNER: I agree; and as Jeff said, if we have shared mutual
16 interests, we will all be able to work on them.

17 MR. McCALL: The gauntlet continues, Mr. Werner.

18 In your previous life, you were a very effective critic against
19 computer-driven risk modeling.

20 MR. WERNER: Before that, I got paid for creating them.

21 MR. McCALL: So, you really knew your current planning responsibility.

22 MR. WERNER: I bought my house building computers.

23 MR. McCALL: You mentioned the PEIS?

24 MR. WERNER: Yes.

25 MR. McCALL: The PEIS is based upon certain risk-modelling assumptions,
26 and you have attempted to reach out to the public in an interactive way on the
27 risk models. The verdict is back. It was a failure.

28 The model wasn't sufficiently developed when you went out to have real
29 meaningful interactive dialogue with the public, so we are back to the black
30 box upon which you are going to build your programmatic evaluation.

31 Do you believe that I am wrong and there has been adequate public
32 validation? If not, will you act as our spokesman with NEM to require that
33 there is adequate public interaction on risk modelling? Finally, will you

1 report to us when you believe that such adequate risk modeling proposal has
2 been formulated?

3 MR. GRUMBLY: You can tell all the pent-up energy of somebody who has
4 been in the Government for a while.

5 MR. WERNER: Tom, there is a lot of pent-up energy on these computer
6 models, but if the questions are directed at me individually, they are easier.
7 If you want to ask --

8 MR. GRUMBLY: Remember, you don't have personal opinions these days.

9 MR. McCALL: You're Option 4. He's Option 4. I am asking you as the
10 Option 4 man, your opinion on those and your presentation to us.

11 MR. WERNER: Well, you have three questions now, and they are asking for
12 a fourth option. So, let me keep my numbers straight.

13 As you know, I have published some serious concerns about the usability
14 of these models in the past, but nowhere have I think I have said that risk
15 assessment or risk evaluation, should I say, couldn't someday be a valuable
16 tool for us; and what we are seeing now is a very big effort to really rethink
17 the way we develop risk and use risks.

18 On November 3 of this year, Tom made a speech before the National
19 Academy of Sciences kicking off that effort to develop risk evaluation tools,
20 and we are still waiting for the report from the National Academy of Sciences
21 panel that many of you participated in.

22 In essence, for those of you who weren't there, we're looking at the
23 existing data, looking at existing models, developing new ways, new
24 institutional mechanisms for developing risk. We will be creating -- I don't
25 know if this is out of the box -- a new office. We will be hiring on new
26 staff to do that and looking at different ways of evaluating risk.

27 The other fourth option, in a sense, is that the old PEIS process -- as
28 you know, we have a little background on those that created this -- has
29 somewhat been overtaken by other events, to some extent, on the list. Let's
30 see what's not on the list. Jill may talk about the Federal Facilities
31 Compliance Act.

32 One of the most important parts of the PEIS was to look at the
33 generation of storage, the need for waste treatment facilities. There is a

1 whole Federal Facilities Compliance Act occurring with public participation
2 drawing on all over the country, working with states, other people; and there
3 is a very laid-out process. Well, that takes a very big part of what had been
4 in the PEIS.

5 There is a land-using planning thing that Pat Whitfield's office is
6 doing right now that is, again, interacting with the public a lot. So there
7 are things happening.

8 Have resolved exactly how models are going to be used in those? No; but
9 more like being a spokesperson within, that I can commit to. That's an easier
10 one. We'll see how we resolve that, but we are working as a team and I am
11 going to work with that whole team on coming up with an effective solution. I
12 guess we look to you guys being part of that too.

13 MR. GRUMBLY: A couple of things with respect that: First, with respect
14 to the PEIS and the risk-modeling part of that, I think we are going to have
15 to see how sensitive the numbers are to different kinds of assumptions when we
16 get that stuff in.

17 I see the PEIS as, and maybe some of my colleagues will cringe about
18 this when they hear this, as more of giving us the ability to play sort of
19 "what if" games with policy as opposed to driving policy.

20 When it comes to actually assessing risk, tomorrow, I will give you a
21 little bit of my own vision about how I think we need to assess the threats,
22 evaluate the threats that are in the system, and to do that in a way that
23 involves a substantially more of what I would say is a public health exposure
24 approach to doing it, rather than simply locking ourselves into the arms of
25 the risk-assessment modelers.

26 I think we are going to have to marry a couple of different concepts
27 together in order to be able to get a holistic view of what is going on at the
28 site, but I can say to you that we are not going to be driven, in terms of
29 decisions, by any kind of quantitative risk-modeling per se.

30 MR. McCALL: Thank you.

31 CO-CHAIR COSTLE: The last one. Dick?

32 MR. BANGART: Just as planning can take on a life of its own and lose
33 sight of the more fundamental objectives, on a more minor scale, I think

1 bureaucracies' organizational structure can sometimes take on kind of a life
2 of their own.

3 It's been my individual experience that, in many cases, it's not so much
4 how the boxes are arranged or who is in the boxes, but it is how effective the
5 program is. It is more based on management effectiveness; whether there are
6 sufficient resources, no matter how they are spread around; the talent of the
7 people; the policies that you have established and how well they are
8 communicated.

9 Please keep in mind that reorganizations can be disruptive and have some
10 costs associated with them. There is a lot of anxiety -- am I going to work
11 for a new person; is it going to affect my career growth opportunities; and so
12 on and so on and so on. So, I would urge you that as you go forward with your
13 reorganization studies to make sure that, when and if you reorganize, that you
14 really are having efficiency and effectiveness gains as a result of those
15 reorganizations.

16 Secondly, you haven't mentioned the need to streamline government. So,
17 you should take, I hope, that into account as well, in terms of the longer
18 range planning, to simplify the bureaucracy.

19 MR. WERNER: I hear you. Let me try to clarify something.

20 I wasn't suggesting "is that on the agenda." I was suggesting that
21 there was a source of cross-cutting framework things that we might get help
22 with as an example. That's all, but we hear you about the reorganization.

23 MR. GRUMBLY: We have already, I guess, crossed one rubicon on the
24 organization route, and that is that we made a decision early on that we were
25 only going to do a very incremental reorganization, precisely because of what
26 it is that you've just pointed out.

27 I mean what this program is going through, it's still coming together
28 and going through so much change that it was my judgment that, really, the
29 last thing we needed was sort of a massive throwing-the-balls-up-in-the-air
30 right then.

31 Secondly, I do think that we need to, particularly with respect to
32 Headquarters-- and my colleagues know this -- we need to look very carefully
33 to see whether we have too many or just the right number of layers to serve

1 the new sort of vision that Secretary O'Leary and I have about what the
2 appropriate roles and responsibilities are for Headquarters and the field.

3 Just to be clear about it, I think that we believe that the
4 headquarter's functions fundamentally need to serve the jobs of policy
5 development, policy analysis, and management by exception to problems, and
6 adequate communication linkages and coordination linkages to the field; that
7 the job is to set, headquarter's job is to try to build the road and set the
8 parameters of the road, not to try to manage 95 percent of the decisions from
9 headquarters. To that extent, I suppose we are somewhat in contrast to my
10 predecessor.

11 Now, the problem is, is that we have to build a field organization that
12 is sufficiently talented in the right disciplines to be able to take back
13 control, or maybe take control -- I am not even sure it's take back -- take
14 control of what we spent our money on from our colleagues in the private
15 sector, which is not to say that we don't need them as partners, but as I
16 think almost everyone knows, we basically deeded over control of this a long
17 time ago to various corporations; and I don't think that's a model that's
18 going to continue to work for us now.

19 The issue of roles and responsibilities between Headquarters and the
20 field is at least as important, and I think probably a more important issue,
21 than any kind of reorganization; and it was clearly the major issue when our
22 field and headquarter's organizations got together several weeks ago.
23 Clarifying roles and responsibilities between the two was a very important
24 issue that we still need to work on and resolve.

25 CO-CHAIR COSTLE: At this point, in an effort to kind of catch up with
26 the calendar, we are going to collapse, essentially, Randy and Ellen's
27 presentations together. Plus, I understand that Ellen got stranded on Metro
28 and called from a phone booth. So, if Randy is here, can we get you to get us
29 going? Ellen is not here yet; am I correct?

30 [Recess.]

31 CO-CHAIR COSTLE: Can we reconvene, please? Can we -- I think I have
32 lost the mike here. Can we reconvene, Randy?

33 MR. SCOTT: Way to go. Everybody hear me all right?

1 I am going to talk about EM safety and health initiatives that we've
2 talked within the organization at a couple of retreats that we held over the
3 last several months, total quality sessions, if you will.

4 The first one was pretty much inside the organization, and then, the one
5 we held in November included some, I guess, stakeholders, if you will, and
6 organizations that we deal with within the Department, but outside of EM.

7 I am going to talk about the goal for safety and health, the strategy to
8 achieve the goal, the action steps we need to take, the EM programs in place,
9 and the plan to achieve the safety and health objectives that we have laid
10 out.

11 Let me read the statement, because it was one that we spent some time
12 and care in developing. We are trying to provide a safe work place that is
13 free from fatalities and serious accidents and continuously reduce injuries
14 and adverse health effects.

15 We were looking for a concise statement of what we wanted to achieve in
16 the safety and health performance, but one that also provided enough detail so
17 people around the system could appreciate what it really meant. If everybody
18 has a hand-out and have caught up to me at this point, then I will move from
19 there to the next page.

20 Some of the things we determined we needed to do to achieve the goal
21 included characterizing our current performance in the area of safety and
22 health. We want to establish a baseline, if you will, of how we are doing and
23 compare our situation with other similar activities to the extent that the
24 data allowed such comparisons.

25 We wanted to define internal and external applicable requirements with
26 regards to the hazards our workers face and determine what standards and
27 requirements we should be applying to mitigate those hazards. We certainly
28 felt we needed to communicate the requirements that we identify to the workers
29 and to our management and all of the participants in the EM programs.

30 We needed to develop a work force that is competent, proficient,
31 accountable, and committed to safety and health. This involves training.
32 This involves raising the awareness and consciousness of everybody involved in
33 EM projects and also involves rewards and consequences for the performance

1 that takes place.

2 Finally, we wanted to identify and mitigate hazards at environmental
3 management facilities.

4 Moving to the next page, we identified action steps which are
5 prioritized based on our latest retreat and work sessions to figure out how we
6 want to attack these problems. I will mention the target dates that we have
7 established and the responsible organization or individuals as we go through
8 here.

9 The first item is developing a strategy for sensitizing the work force
10 to safety issues inherent in their jobs. This is something we have said we
11 are going to accomplish by February of '94. It is a responsibility that
12 myself and Rich Guimond share as the champions, if you will.

13 All of these things have responsible parties who clearly cannot
14 accomplish the steps by themselves. The whole organization -- headquarters,
15 field, contractor, and Feds -- are involved in all of these, but we wanted to
16 find and identify people to be champions, if you will, of the various actions
17 that need to be taken.

18 With regards to this first one, I think we have seen, over the last year
19 or so, that the lack of appreciation for hazards in the work place has at
20 least contributed to some fatalities and serious injuries that we have
21 experienced.

22 The second item, "implement and enforce occupational safety and health
23 requirements for all of the labor force"; due date of December '94; this is an
24 EM-2; lead responsibility: Rich Guimond. This involves communication
25 requirements and sensitizing the work force and management to the hazards that
26 are out there. This is also something that the OTA report, completed in
27 February of '93, that many of you are familiar with identified as a weakness
28 in the EM program.

29 The next two items are really combined in my mind, and they are to
30 prepare health and safety plans for all the EM facilities, for non-nuclear
31 facilities and activities, and prepare safety analysis reports or preliminary
32 hazard analyses at all nuclear facilities.

33 We don't find, and the OTA report again suggested we did not have good

1 analysis and documentation of safety base lines and hazards at our facilities.

2 This has a December '95 due date, and it is something that rests with my
3 organization once again.

4 An item that was inadvertently left off of this sheet is development of
5 worker safety and health performance measures for all supervisors in the
6 system. It has a due date of October '94; it is an EM-10; Ken Glozer's
7 organization has responsibility for that one.

8 Next, "Develop standards/requirements identification documents for all
9 major EM facilities." We have a December '96 due date on that one. My
10 organization, once again, has the responsibility to be a pusher, a champion,
11 if you will, clearly to field and align; and contractors have a big role
12 there. I will talk a little bit more about that one in a minute.

13 "Develop a safety and health training needs assessment": We haven't
14 really gone out and looked to see what the workers and management needs to
15 know versus what they do know about safety and health. We know we don't have
16 enough knowledge in the system and enough appreciation for the standards and
17 requirements that we are currently aware of, and we have an initiative by
18 October '94 for EM-10 working with EM-20 to accomplish that.

19 We want to get more safety and health professionals in the field and at
20 headquarters. Another OTA finding: We just don't have the power in place to
21 look out for safety and health the way we would like to. As you know, OMB
22 approved another four hundred positions, NEM and FY 94.

23 We are going to be looking in addition to finding ways to get control of
24 the system, as we have said, and get better project management and cost
25 controls in place. We are certainly going to be looking to beef up our safety
26 and health professional staffs.

27 The last item on the page, "Characterize and prepare current safety and
28 health performance," I mentioned a moment ago we needed to base line how we
29 are doing in EM, in safety and health and all of our various activities to the
30 extent that the Government and private experiences in clean up, in waste
31 management and similar activities.

32 It has comparable data and statistics on safety and health. We will
33 want to look and see how we do compared to them, but probably more

1 importantly, we want to draw a line in the sand, if you will, figuring out how
2 we are doing now and look to improve over the coming years.

3 I want to talk a little bit about some --

4 CO-CHAIR COSTLE: Would you give a date on that.

5 MR. SCOTT: I'm sorry. That's June of '94, and that's another one that
6 is shared between myself and Rich Guimond.

7 MR. CHRISTEAN: On the previous one, did you give a date for that one
8 too?

9 MR. SCOTT: Maybe I didn't mention it. That was FY 94. We have the
10 approval for the slots. We just don't have the people on board and trained,
11 and we haven't totally clarified which areas of expertise will be sought in
12 what ratio among the four hundred.

13 CO-CHAIR COSTLE: When the OMB passed that, it's probably recent.
14 Right?

15 MR. SCOTT: Yes. We just got that approval.

16 CO-CHAIR COSTLE: So, I see we are still wrestling with the allocation
17 of those among the various individuals.

18 MR. SCOTT: Correct. I think Ken Glozer will be talking about that, but
19 we are planning on having an exercise where the field officers actually come
20 in with a proposal on how they are going to use the people, which will affect
21 how we dole them out.

22 MR. JIM: How do you qualify for one of these four hundred positions?

23 MR. SCOTT: Pardon me?

24 MR. JIM: How do you qualify for one of these four hundred positions?

25 MR. SCOTT: How do you qualify?

26 MR. JIM: Yes. What are the criteria for them?

27 MR. SCOTT: We haven't detailed that. Certainly, most of them will
28 probably come from the private sector or outside of Government, outside of DOE
29 anyway, but we are going to be looking for cost engineers. We are going to be
30 looking for safety and health people. There will be a lot of position
31 descriptions written that will describe what the areas of expertise are for
32 each of the slots.

33 As far as some of the programs we have in place, currently, operational

1 readiness reviews, there was a new order that was issued in September and a
2 standard issued in November. We have Facility Board recommendation as well by
3 getting these out in the time frame we did.

4 Basically operational readiness reviews, if you are not familiar with
5 them, are reviews that are done to determine what standards ought to be
6 applied and verify that the facility is ready to either start up, if it is a
7 new facility, or for restart of a facility that was shut down for safety
8 reasons.

9 It's primarily a nuclear facility activity, but we are endeavoring, as
10 you will see as I go through this, to give better attention to our non-nuclear
11 risks as well as our nuclear risks in the complex.

12 For safety and health training orientation, we have a program lined up
13 for headquarter's supervisors and program managers that we are going to put in
14 place early in '94 to try and sensitize them to the standards and requirements
15 that are out there right now on safety and health. That training program will
16 eventually move on to the field.

17 Standards and requirements identification documents -- this is in
18 response to Defense Nuclear Facility Board Recommendation 90-2, where they ask
19 the fundamental questions: What standards and requirements are you applying
20 at your facilities? Are they adequately ensuring protection of the workers
21 and the public in the environment? Are you in compliance with those
22 requirements? A fundamental question that we should have been able to answer
23 and weren't, and we have a major undertaking to try and answer that question.

24 Fundamentally, what happens is, at a given facility, the contractors,
25 for starters, would ask themselves the question: What are the hazards that
26 are posed by the work that is being done by the materials that are on site?

27 The next question is: What are the standards and requirements that
28 ought to be applied to mitigate those hazards? Then we want to put those
29 standards and requirements in place and begin to periodically assess our
30 compliance with those over the future.

31 The Board felt, among other things, when they issued the recommendation,
32 that we didn't really understand what requirements ought to be in place; and
33 even for the orders that were clearly recognized to be applicable, they didn't

1 feel like those orders covered all of the hazards that we are dealing with out
2 there.

3 Certainly, that statement is more true for EM facilities, possibly, than
4 some of the more traditional operating facilities, because of the nature of
5 the work we are doing. We are doing some things that haven't been done before
6 or very much, and we really need to look beyond DOE orders into the national
7 consensus standards to find requirements that should and can be applied.

8 The situation here is one where the contractors propose the correct set
9 of standards and requirements, and then, DOE reviews and approves them. We
10 don't just take at face value what we are told that ought to be applied at a
11 given facility.

12 Moving on to the next page, there have been quite a number of
13 initiatives with regards to safety and health at the Hanford Tank Farms,
14 including a number of Defense Board recommendations. The two we are noting
15 here are more recent and involve support and assistance from the Assistant
16 Secretary for Environment Safety and Health, Mail Code EH.

17 They are moving into a less of an auditor mode and more of a technical
18 support and assistance mode, and they are lending some assistance in a mentor
19 project to improve safety and health at the tank farms by actually providing
20 professionals to go out and work with the program managers out there. In
21 addition to that, they have agreed to work with us on accelerating the S/RIDs
22 development effort, and they are going to begin that in early February.

23 As far as rule-making, formal enforcement of nuclear safety requirements
24 under the Price-Anderson Act is a fairly new phenomenon in the Department. We
25 don't have all the rules formally adopted yet, but when we do, part of the EH
26 organization will be enforcers. We have a rules working group in place
27 stimulated, to some extent, by EM's uniqueness; that is, working on how to go
28 about seeking exemptions for certain requirements that don't fit.

29 I will talk a little bit later about the fact that a lot of the nuclear
30 safety requirements in the Department are really oriented towards reactors and
31 weapons production activities, and EM is significantly different. So, we need
32 to look to find the right sets of requirements for us to be applying in our
33 day-to-day activities.

1 Safety Analysis Reports, they defined the nuclear safety envelop for the
2 site, and an order came out in March of '92 that basically required that we
3 put together at each site an implementation plan on how to go about getting
4 SARs updated for those facilities that had SARs that were not adequate, and we
5 also were looking at getting SARs in place from scratch for a lot of the
6 facilities that didn't have them and needed them.

7 We had a workshop last week that my folks and the defense programs
8 people were involved in to try and respond to that order. We are well behind
9 in responding to that order. The Department as a whole is well behind, and
10 the workshop, I think, was a success, although it helped us better appreciate
11 how much catch-up we have to do. We are looking, as I noted earlier, to have
12 SARs at all of our nuclear facilities by December of '95.

13 A few more on the next page, a few more programs in place, if you will.
14 EM-40, the Environmental Restoration people have a lessons-learned program in
15 place that we are working with them on to make sure that we share the lessons
16 that we sometimes painfully learn out in the facilities regarding safety and
17 health and getting people hurt. That is a joint effort that goes outside the
18 Department to EPA and OSHA, and we are working to make sure those hard-learned
19 lessons are shared across the facilities and across the EM programs.

20 HAZWOPER [Hazardous Waste Operations] Technical Guide: This is
21 something we are jointly working on with the Assistant Secretary for
22 Environmental Safety and Health again. This primarily relates to clean-up
23 work, work with CERCLA, emergency response, and D&D activities.

24 As a part of the technical guide, we will include a health and safety
25 plan model, as you can see, to be completed by December of '93. It includes a
26 medical surveillance section that is due this coming June, and as well as
27 exposure monitoring guidance primarily for the facility people out in the
28 field.

29 The Department is putting together a HAZWOPER standard. EH is
30 developing that. At our encouragement, it is expanding to include Radcon and
31 nuclear safety, which it originally was not going to incorporate. We have an
32 EM contract, occupational safety and health program that involves, once again,
33 a guidance manual. It is broader than the HAZWOPER technical guide that I

1 mentioned earlier. It would include waste operations at the ---

2 MR. BRECKEL: Randy, excuse me. Could you explain what HAZWOPER is
3 again?

4 MR. SCOTT: I'm sorry. Hazardous Waste Operations in Emergency
5 Response. Any of these alphabet soup things I get into, please stop me and
6 get me to spell it out if need be.

7 Anyway, this last item on your page is an EM OSH program and related
8 guidance for GOCO facilities. We are trying to get that into formal review in
9 1994. One thing, let me back up to the HAZWOPER technical guide.

10 That essentially replaces something that OSHA and NIOSH, EPA, and the
11 Coast Guard have put out several years ago. It has become pretty much
12 outdated and certainly doesn't apply very well to the things that EM is doing
13 and about to do. So, that is why that technical guide is under development.

14 An item that didn't make this page that I need to point out is with NEM,
15 we have a safety and health steering committee that was developed, I guess,
16 within the last year, that has been fairly effective in communicating safety
17 and health issues across the complex.

18 We talked earlier about some stove-piping problems that the Department
19 has had, particularly in EM, and this group is working to mitigate those
20 pretty effectively, I think, at this point.

21 On the last page, some planned programs, are things we have in mind that
22 we don't yet have in place. A lot these, we have already talked about --
23 safety and health performance measures for all supervisors; increased safety
24 in health professionals in the field and at headquarters; safety and health
25 training needs assessment. All those have been noted.

26 I don't think I mentioned before the idea of incorporating these
27 standards requirements identification documents into the actual contracts with
28 our NMOs and the people doing the work out in the field. We really feel that
29 this will be a big improvement in formalizing and clarifying expectations
30 between DOE and its contractors in how we are going to do business.

31 Well, lessons learned from the S/RIDs -- I didn't mention, when I talked
32 about the 90-2 response that we have, eight pilot facilities for which S/RIDs
33 have been completed. We haven't had them formally reviewed and approved

1 within the Department, but we have the finished documents and we are currently
2 look at them. We certainly intend to take what we have learned from those
3 first eight and apply them to the rest of the S/RIDs that need to be
4 developed.

5 "Increased worker involvement in safety and health" -- various labor
6 organizations and individuals have reminded us that we haven't gone far enough
7 in getting the workers on the floor out in the facilities, getting them
8 involved in some of our planning safety exercises, and we certainly intend to
9 do that.

10 Also, an employee concerns program, we are trying to formalize that and
11 get that in better shape, so that people feel free and don't feel the least
12 bit intimidated about raising safety concerns to us as they see them out in
13 the plant and in the sites.

14 Now, I want to make one other comment and conclusion. I think we have
15 been suffering from an all-or-nothing mentality a little bit in safety review
16 and documentation and safety measures as well. As I mentioned a moment ago,
17 we have a lot of, at least in the nuclear safety area, a lot of the
18 requirements were fundamentally developed with nuclear reactors and weapons
19 production in mind; and they don't fit very well with what EM is doing in a
20 lot of cases. Certainly, they fit at the defense waste processing facility
21 and at the Hanford tanks, but not at a clean up at a low-level waste site.

22 What we want to do is get discipline and rigor in the EM safety and
23 health program at nuclear and non-nuclear facilities both; but we want to have
24 careful application of the graded approach when we are going about these
25 activities.

26 The graded approach is a fairly misunderstood concept, I think, in the
27 complex, but one thing I want to make clear is the way we view it is we are
28 not grading the safety level that we are trying to achieve. We are grading
29 the amount of effort it takes to get there.

30 There is a difference, again, between the defense waste processing
31 facility and a chemical spill out in the field; and we certainly want to reach
32 the same level of safety.

33 We want to protect our workers and the environment and the public, but

1 we want to formally recognize that it takes different levels of effort to get
2 there, depending on the hazards of the facility you are working at and the
3 contaminants that are there and the complexity of the activity. So, we are
4 trying to keep that in mind as we go forward in our safety and health
5 programs.

6 I need to talk about the cost study, but I probably ought to stop here
7 for questions and comments on the safety items.

8 CO-CHAIR COSTLE: Tim?

9 MR. CONNOR: A couple of weeks ago, I had the opportunity to listen to
10 Tara O'Toole talk about the challenge of clean up. She said that in her view,
11 the potential hazards to the workers during the clean-up phase could actually
12 be greater than those experienced by workers in the last ten years of
13 production activities.

14 Those of us who have been inside some of these production facilities
15 were stunned by that, and it raised, in my mind, a question that has been
16 tumbling around there since we were at Hanford, of the young technician coming
17 before the EMAC and relayed, with palatable fear, how concerned he was about
18 his health and that of his crew that were handling some of the samples from
19 the Hanford waste tanks; his concern being that there may be stuff in these
20 samples which we have no idea what they are. They haven't been identified.
21 We don't know what our exposure is, and we are concerned about our health and
22 our health for our families because of that.

23 The question I asked her was: Isn't there a checklist when you go into
24 a work situation like that where you have the hazard identified, not only the
25 proper monitoring for that hazard from a safety point of view, but we are also
26 concerned that the mistakes made in the past in the radiation work place not
27 be repeated in terms of being able to study the work population.

28 In other words, there is some great uncertainties with the exposures
29 that the folks have experienced in the past from a radiological standpoint.
30 Now, we are in a work environment where the chemical hazards, at least there
31 is an appreciation of what the exposures are and also how they could be
32 confounding, in terms of understanding the relationship between that and the
33 exposure, both radiological and chemical, and the health experience of those

1 workers.

2 I was just wondering, given the different pieces of your presentation,
3 what initiative in there is closest to giving you that sort of a checklist, so
4 that when somebody goes to do a job that may not have been done before that
5 the proper monitoring and surveillance and safety requirements are in place
6 before that job is done, because it would seem to me that if you are too
7 generic, that you may miss some of the important exposures.

8 MR. SCOTT: Well, there are certainly procedures when you know what the
9 contaminants are, and there are procedures when you don't that Superfund has
10 developed and we have as well. Whether they were applying them well enough is
11 another matter. We are certainly going to.

12 In turn, I certainly agree with what you said about the condition of the
13 facilities adding additional hazards to the things we are doing, and that is
14 what makes some of the EM work unique and uniquely dangerous, and it is
15 possibly what makes the existing set of standards and requirements in the DOE
16 complex at least not always applicable and not always sufficient to cover the
17 hazards that we are dealing with. So, I don't contest that at all.

18 One of the things I mentioned was the monitoring of the work place.
19 That is something we have always done. We have probably spent a lot more
20 attention on monitoring the nuclear hazards than we did the chemical hazards,
21 and we have a lot of catching up to do in that area.

22 The Department has historically paid a lot of attention to nuclear
23 hazards and not very much to chemical hazards, and we have to do better.

24 MR. CONNOR: The Department, in the past, has had health physics
25 professionals at a company that have responsibility for monitoring the whole
26 place, and my question is: In clean up, is there going to be a personal
27 responsibility function, whether it is a health physics person or somebody who
28 has a chemistry background, to supplement the health physics part of it who
29 can certify before a task is begun that the hazard has been analyzed, so if
30 there is a unique hazard potential there, that it is understood; and that the
31 folks doing the work have the proper protection in terms of warning them to
32 exposures and also monitoring the chemical reaction exposures as it occurs?

33 MR. SCOTT: That is what the health and safety plan is supposed to do.

1 MR. CONNOR: How soon would that be in place?

2 MR. SCOTT: Well, we have them in a lot of our facilities. We don't
3 have them everywhere, and it is something Tara knows, because she wrote the
4 OTA report. We need to improve them. We have to get them at all of our
5 facilities, and we have set some milestones to make that happen.

6 CO-CHAIR COSTLE: These plans would, for example, identify a team of
7 people who would scope out the kinds of issues around a particular facility or
8 tank or whatever.

9 My sense of your question, Tim, is what sort of real-time control is
10 there? Is there a real sense of urgency about that out there now? As opposed
11 to a plan that is trying to be comprehensive, what are you doing in the
12 absence of a plan?

13 MR. SCOTT: Health and safety plans are facility- specific for each
14 activity or facility.

15 MR. GRUMBLY: There are really a couple of things here, aren't there,
16 Randy? First of all, I think Tim asked a very reasonable and simple question
17 that we ought to have a reasonable and simple answer to, which, obviously, we
18 don't yet.

19 Each site where we are at is supposed to have a comprehensive health and
20 safety plan before you undertake remediation that now we'll be approved by the
21 Environment Safety and Health people before it is implemented; and I say
22 "now," because we have identified some problems during the last few months in
23 which health and safety plans, for example, at Fernald, were not getting the
24 kind of review by the by the ES&H people, private safety and health people,
25 before being approved. So you are supposed to have a comprehensive plan for
26 dealing with that.

27 Then, overlaying that, the next thing that happens is that at each of
28 our facilities, something that the Navy calls "conductive operations" is
29 supposed to be and is, at some places, a very highly implemented strategy.

30 All that I mean by conductive operations is when you got on the airliner
31 last night or this morning, the people, even if they were bored, went through
32 a drill with you. The flight attendants went through a specific drill, which
33 they go through every time, that is designed to try to at least call their

1 attention to what it is they are doing, and they will try very hard to call
2 your attention to it.

3 Up in the cockpit, each time before they take off, there is a clear
4 checklist of what needs to be done that gets done every time under whatever
5 circumstances, so that people are engaging their brains before they hit the
6 ground.

7 So you are supposed to have the ideal situation -- which, I confess, we
8 do not have ideally at each of our places at the moment because there are
9 seemingly different cultures at some of our places -- a comprehensive health
10 and safety plan that identifies what is supposed to be done; and then, a set
11 of conduct of operation rules that should govern how workers actually perform
12 on the ground.

13 Underlying all of that, of course, needs to be a level of training,
14 individual responsibility, that each of our workers, whether they are
15 operating workers or whether they are people being brought on to these
16 facilities as part of the laborer or construction force, to make sure that
17 nobody comes on to these sites that doesn't understand the specific kind of
18 hazard that they are going to be dealing with.

19 We are farther along in some places than others with respect to that,
20 and I think one of our objectives is to try to get it over time. I don't
21 think this is a three-year problem. I think it is probably a seven- or an
22 eight-year problem. We have to get ourselves, as a system, up to speed in a
23 way that a we are not.

24 Frankly, one of the big surprises that I've had in the first six months
25 of doing this is I expected to come into a system because we were dealing with
26 the most dangerous materials known to mankind in which people who were working
27 out there really did kind of follow the book. They don't in a lot of cases.

28 I think it is a big challenge for us, and it is the reason why, as part
29 of our priorities, we sort of put worker safety on the list as a major
30 priority for us to work on. So, I think we have a ways to go in the area.

31 CO-CHAIR COSTLE: Jim?

32 MR. ANSPAUGH: I think Tom addressed my concerns, but still, from my
33 experience in the field and talking to people, all this emphasis on planning -

1 - and this is deja-vu all over again, as Yogi Berra would say -- all this
2 uniqueness and all that, people are still under EM, are being killed by the
3 very basic problems that have existed for the hundreds of years we've had
4 construction; and I have still not seen, as I have requested, the structure
5 and accountability; how we get from Secretary O'Leary down to the laborer
6 sweeping the parking lot. There does not exist a structure or accountability.

7 Now, I mailed out to the Committee earlier, and I asked Randy and gave a
8 copy to Randy, of what order is required. We need to compare that with what
9 is actually being implemented. I don't think the Committee has an idea yet,
10 and I look forward to working more with you, Randy, to see if we can get that
11 done.

12 CO-CHAIR COSTLE: Vicky?

13 MS. DASTILLUNG: At Fernald, we currently have a union that is working
14 without a contract, and they recently went to the Federal courts to ask the
15 judge to make the site adhere to the old health and safety language in the old
16 contract while they were without a contract. I guess my question is: Does
17 DOE have anything in their written guidance that requires the old contracts,
18 health and safety, to be adhere to in those kinds of situations, or is it kind
19 of just catch-as-catch-can? To me, it represents a potential problem that
20 could be fixed.

21 MR. WINSTON: And is that a common problem?

22 MR. GRUMBLY: We are in flux. I think we are in flux at the moment. I
23 mean, we are in the middle of what I think is probably, again, I would say
24 probably a decade-long change from people who have been working on one kind of
25 problem to people who are being asked to work on a different kind of problem
26 and new people coming into the work force.

27 I think that it is clear that where we are going -- we are not there yet
28 -- is that we are going to a single standard of safety; that before you get on
29 to the site, you will have to meet a single standard. Everybody has to meet a
30 single standard of safety, in terms of training, in terms of the expectations
31 that are going to be made of the people who are working on the site; that we
32 can't have people working on our sites who aren't prepared to do so.

33 Everybody who comes on to the site it is going to have been through the

1 right kind of training activities and be willing and able to be governed by
2 the same kinds of rules, because I don't know of any other way to make things
3 happen.

4 We had a meeting with the major labor union presidents, the Secretary
5 and myself and a couple of other folks in the Department, about two weeks ago
6 to discuss this. One of the few things that was agreed upon by all of the
7 presidents that were there was that the health and safety rules that we are
8 governed by have to be essentially standardized.

9 Now, whether that gets done by contract, whether that gets done by our
10 edict, remains to be seen. What we don't want to have happen, just to flip
11 the other side over, is we don't want to freeze into place a particular work
12 force where we say, Well, only X, Y, and Z persons can work on the site,
13 because they belong to the one union that has the right level of training.
14 What we have to do is make sure that everybody hits the same performance mark,
15 rather than that everybody has to belong to the same union.

16 MS. DASTILLUNG: As a public, we just want to make sure that the workers
17 are safe even in those times of flux, because we are only as safe as they are
18 at the site. So, we have a vested interest in making sure the workers at our
19 site are safe too.

20 MR. SCOTT: What is the basis for your concern? Has anybody suggested
21 that, because of the limbo status of the contract, no safety --

22 MR. GRUMBLY: Well, I think the concern, Randy, that gets raised is that
23 you bring -- I don't mean to be blunt about it -- first of all, you bring new
24 people on to the site. I am not saying I agree with this or whatever, but if
25 you bring new people on to the site who aren't used to working in our
26 facilities, they are not going to be as aware of the problems that exist.

27 Also, as we go through a change in the kind of what that is being done -
28 - to go back to the question that Tim asked -- maybe we are having people
29 encounter chemical hazards that they haven't encountered before.

30 MR. SCOTT: I misunderstood the question. I thought we were just
31 talking about the contractual limbo status with the same people before and
32 after.

33 MS. DASTILLUNG: Well, the fact that workers have to go to a Federal

1 court to asked to be protected worries us. There is a problem I think. There
2 is something not already in place that should be in place that is protecting
3 them.

4 MR. GRUMBLY: I think that is right, but I think we also have to
5 recognize that there are, and this is not meant as criticism of any of our
6 friends in the labor communities, there are a lot of different agendas that
7 are working out there at the moment.

8 It is easy and expected that health and safety concerns would be raised
9 by a set of workers who have been on the sites for a long period of time and
10 used as weapon in the jurisdictional battle about who is appropriate to be on
11 the site and who isn't.

12 I think what we, in the Department, have to keep our eye on is the same
13 ball that we were just talking about which is the safety mark itself and
14 making sure that each worker, each individual person, who is on that site is
15 trained to an appropriate level and try to stay out of the labor
16 jurisdictional battles. I think we have to recognize that just somebody goes
17 to court doesn't mean they are right all the time.

18 MS. DASTILLUNG: That is basically my question: Did they really need to
19 go to court, or was that just something they happened to have done? Does DOE
20 have in place written guidance saying you will follow the old health and
21 safety standards?

22 MR. GRUMBLY: We will have a comprehensive health and safety plan at
23 Fernald, for example, by tomorrow that's approved. I say that because it's
24 December 15.

25 MS. DASTILLUNG: You will, but you didn't when they went to court?

26 MR. GRUMBLY: Yes. I think that you were --

27 MS. DASTILLUNG: So they had a legitimate fear?

28 MR. GRUMBLY: I think that there was a legitimate concern at Fernald
29 that the health and safety plan that had been developed by the contractor at
30 Fernald had not been appropriately reviewed by the Environment Safety and
31 Health part of DOE. I think that is a legitimate concern, and we agree with.

32 CO-CHAIR COSTLE: Al?

33 CO-CHAIR ALM: Randy, I was just going to ask do you have an audit

1 program?

2 MR. SCOTT: Yes.

3 CO-CHAIR ALM: Could you explain it in just a word or two?

4 MR. SCOTT: It is not where we want it to be, but we have in mind a pro-
5 active audit program to go out and look at facilities and see how we are
6 doing.

7 The new organization in the Department assumes that only the Assistant
8 Secretary for ESH will actually go out from Headquarters to look at M and O
9 contractor performance. That doesn't mean that we are relieved of
10 responsibility to keep tabs on what it is that our DOE people are doing in the
11 field to ensure safety and health; and certainly, we are not excluded from
12 ever going and looking at an M and O contractor's performance. The role is
13 slightly different than it was prior to Hazel O'Leary coming to the
14 Department, we are adjusting to that to some extent.

15 The other thing I would mention is we, frankly, have been in a reactive
16 mode rather than a pro-active mode to date in our safety and health oversight
17 activities, and we are trying to staff up. We have a job fair, and we have
18 these new positions; and we look forward to getting into a more of a pro-
19 active posture in auditing field and operations office activities.

20 MR. CHRISTEAN: There are very things we are going to discuss around
21 this table that I can claim much expertise about, but one of the things that
22 Tom talked about was the strategy that unions sometimes employ. If he has as
23 much insight to clean-up as he seems to be in our business, we're going to be
24 in good shape around here.

25 The second thing I would like to say is when Tom first talked about it,
26 I believe he said -- correct me if I am wrong; I'm telling you to do that --
27 that the DOE was going to go back to OSHA. Well, it doesn't seem like it. I
28 mean, I'm looking at Randy's presentation, and it doesn't show me that we are
29 going to go back to OSHA. What is going on in that respect? I am not talking
30 about DOE's version of OSHA. I am talking about OSHA.

31 MR. GRUMBLY: I think the commitment that the Secretary made is that by,
32 I think '96, that we would be regulated by OSHA; and that the decision that
33 she made was that we would have to, if we just tossed the ball to OSHA today,

1 we would be worse off because they don't have a clue at the moment. We have
2 to be able to give them some programs that are in place so that they can
3 appropriately deal with us. I think that is the objective, that is the course
4 that we are on at the moment.

5 Let me expand on something that Randy said. There are a lot of
6 different organizations' concerns that are coming together on this safety
7 problem. The Defense Nuclear Facility Safety Board has a very high degree of
8 interest in these safety issues. Obviously, our own Environmental Safety and
9 Health Assistant Secretary, this is her area -- Occupational Safety and
10 Health; and we have a very high interest in trying to resolve this. Plus we
11 have the evidence of what happens, when we don't take this seriously,
12 compellingly in our face with the number of deaths that we have had in the
13 system that is just really not conscienable [sic].

14 We have just been given the authority to hire several hundred new DOE
15 professionals. A serious -- I don't know exactly how many yet, because we
16 haven't it reviewed or haven't had the numbers come up because we just got the
17 authority about two weeks ago -- this health, safety, and environment area and
18 the worker safety area is going to be a major priority for us to improve our
19 expertise out in the country to try to deal with this problem; but we are not
20 where we would like to be.

21 I mean, I am almost embarrassed, not for Randy, but to sit here and to
22 have a system that is as old as this one is, you know, with 45 years of
23 history, and to be where we are, to be blunt.

24 MR. CHRISTEAN: I was involved in, as others, but I was involved in
25 DOE's efforts to draw up their version of OSHA within the last year and a
26 half; and I want to tell you, and this is not even to imply at all that I
27 believe that you guys are going to operate like they did, but I want to tell
28 you something.

29 In the last go-around, in terms of EH drawing up OSHA rules, about the
30 only thing I could see that that culture was really committed to was getting
31 employee representatives plumb the hell out of that business. So that is why
32 I wish '96 were here sooner, because I think it was a product of the culture.

33 Somehow there were middle-level people working on that ---- but not all

1 the dinosaurs are in DOE, but the point is that, that was most concerned
2 about.

3 We would try to input, and it was just real clear that they were going
4 to make sure that we didn't have any input into worker health and safety. I
5 know that has gone away, but that is what we have had to deal with and that
6 was about 40 years ago.

7 MR. GRUMBLY: Well, let me tell you the proposal that Secretary O'Leary
8 put on the table with the national unions, and it goes beyond the health and
9 safety issue but includes it; and that is that for all future contracts, major
10 contracts that we would do, we need to involve the unions along with potential
11 contractors, but involve the unions in the development of the mechanisms that
12 we are going to use so that we have appropriate health and safety plans built
13 in.

14 I will tell you this: I do not want to go through another experience
15 like the one that we are going through at Fernald at the moment, where we have
16 sort of this warfare out there, in part because we did a top-down imposed
17 thing and didn't involve people from the bottom in how the contract was going
18 to look. I think unless these sort of people are involved in the front door,
19 and we found that this morning again -- here you are, a number of people
20 complaining that I have sort of unilaterally imposed a new set of chair people
21 and --

22 You know, there are no perks to this office anymore, so I sort of
23 figured I would just appoint a few people that I knew.

24 Nonetheless, the lesson is well-learned, which is if you want to be in
25 on the landing, you have to be in on the take-off.

26 I think that is the way we have to design our contracts to make sure
27 that these health and safety issues are appropriately built in, but not built
28 in, in the way you get these nontariff trade barriers a lot of the time. I
29 don't think it is right to use health and safety issues as blocking issues
30 against people coming into our system to do work; that it has to be built in
31 from the bottom.

32 CO-CHAIR COSTLE: Ken and then Bill.

33 MR. AYERS: Randy, I would like to look at a little different aspect to

1 this question. While you were speaking, we were handed out an article from a
2 Cincinnati paper -- I don't know if you passed this out -- which criticizes
3 FERMCO, both as far as cost containment and worker health and safety. I think
4 most of us are fairly well aware that when you put workers in the proper
5 protective gear and the proper safety precautions were taken, work goes
6 slower. It is just a known fact.

7 Are you looking at any way as you are developing these health and safety
8 requirements to help your managers and your contracts people balance their
9 criticism on cost containment and penalties for contractors who are actually
10 trying to implement the health and safety when it could slow the work down and
11 raise the cost?

12 MR. SCOTT: I don't think Tom will disagree with the statement that we
13 are not going to sacrifice safety to meet schedules and milestones. I think
14 the other response I would have is that my comment on the graded approach, I
15 think, applies to what you are saying.

16 We are going to try to do the right things that need to be done to
17 achieve a level of safety that we are all comfortable with for the workers and
18 the public in the environment; and that is not always going to be -- you know,
19 you have the gold-plated version and you have the lean-and-mean version, and
20 we are going to try to go with what needs to be done but not a lot more.

21 We have limited resources, and we are going to use them effectively as
22 possible, not only in safety and health, but everywhere.

23 MR. GRUMBLY: I don't want to yet segue from this first part of the
24 conversation to the second, although they are quite related.

25 In some of the work that we have done, there are people who will use, as
26 an excuse, for how expensive we are -- the fact that we work around all these
27 exotic materials. I think the work that we have done over the last few months
28 demonstrates that, while there may be some reason to think that working around
29 nuclear materials in particular would slow things down, there is still an
30 enormous amount of progress that we can and must make, which is to say I don't
31 think we can use the health and safety issues as an excuse for not getting
32 less expensive.

33 I think we have to take this into account, but I really think that a lot

1 of people have used it as a smoke screen in the past for why we are as
2 expensive as we are; and I think we have to get past that. That would be my
3 view. Joe?

4 MR. FREUDENBURG: I would like to get back to a point that Jim Lapping
5 mentioned earlier about accountability. Before I do that, I do want to spend
6 15 seconds as a special interest.

7 On behalf of the Wisconsin paper industry, which is one of the major
8 employers in my state, I would like to thank you guys for all the work you are
9 generating in the Wisconsin paper industry, which helps to pay my salary.

10 Having said that, however, my other hat is as a taxpayer and as somebody
11 who, among other things, studies organizations. There is a simple way to
12 divide up the world. You can think about writing plans and regulations and so
13 forth, and you can think about what you do to make those plans real to people.

14 As I look through this, I am reminded of what Jeff said just a minute
15 ago. Lord, help me before I generate paper again. We have plans; we have
16 goals; we have strategies; we have programs; we have regulations; we have
17 initiatives. Yet, I have this sense of a disconnect between all this activity
18 -- and I am sure you have very bright people working very hard -- at a
19 disconnect between that activity and what happens in the field.

20 We went to Fernald, and one of the things we have heard there as we have
21 heard every place is that this place is a model. We are so safe. We are so
22 great; the rest of DOE is looking at us as a model. I said, Okay, well, we
23 will wait and see if the news changes next year. Next year, the news is
24 "clean up hassles abound."

25 The new contractor is getting scathing reviews -- they have a lack of
26 discipline in operations; there have been flash fires and all sorts of safety
27 problems -- and it really sounds an awful lot like what we have seen over and
28 over again in the past.

29 Now, there have been studies of organizations over history that find
30 that, among other things, they find that very few workers ever want to get
31 killed or maimed or destroyed and the like. Second, the studies find that in
32 an accident, management always blames workers. They say, Well, we tried to
33 teach these guys safety, but they just --

1 MR. GRUMBLY: Wait a minute. Nobody is blaming the worker here. Nobody
2 is blaming the worker here. I will accept a lot of criticism, but nobody is
3 blaming the worker in the Department of Energy.

4 MR. FREUDENBURG: Let me not see anyone blaming the worker. Then I
5 should perhaps say that when I see many references in the set of hand-outs of
6 how we need to develop a work force that is competent, proficient,
7 accountable, and committed to safety, that implies to me a belief that --

8 MR. GRUMBLY: I hear what you are saying. Let me make it absolutely
9 clear, and I hope we did the last week, when, for the very first time in the
10 history of this Department, a major contractor got zero award fee:
11 Westinghouse. All right? That is not blaming the workers. That is holding
12 management accountable.

13 MR. FREUDENBURG: That is exactly the direction I want to take with my
14 comments, because usually when you talk to the workers, they tell you a very
15 different story. The management, historically -- and I don't mean you, Tom; I
16 mean the folks who have been running things, who are the contractors -- will
17 say, Well, we tried to teach worker safety and health, but sometimes these
18 guys are just so macho they don't take direction very well.

19 Somehow, there seems to be a disconnect between the regs and the
20 reality. Thomas used a word before that is music to my ears about incentives
21 and penalties. How do you not just generate paper at headquarters, but get
22 the folks who are running things out in the field to take it seriously?

23 The need may not be, at this point, to generate more paper. We have had
24 workers come and talk to us, among other things, who will tell us that we have
25 plenty of paper. We have 15½ pages to do to change a light bulb around here.

26 Somehow, and we can generate more paper until we have to send this out
27 with the workers with a CD-ROM, but somehow there seems to be a disconnect
28 between what is being done at Headquarters-- with a lot of bright people
29 working very hard -- and what actually gets to ground. Incentives, penalties,
30 what you have just said here, Tom, again, this is music to my ears.

31 Can we see more on what is being done to get the contractors to take
32 safety seriously and less on "here's what we expect contractors to do" and
33 it's in a library some place and it is never again connected to reality?

1 MR. SCOTT: Well, I have a couple of responses. First of all, if the
2 words "develop a work force that is competent, proficient, accountable, and
3 committed to safety and health" implies that it is all in their lap, I
4 apologize for that.

5 Those words mean to me that we have trained them; that we have given
6 them the right equipment; that we have reduced the hazards in the work place
7 to the extent that we can. These words are not intended to say it's your
8 problem; you are the one out there at risk.

9 In response to your other comment, I am not in favor of killing as many
10 trees as possible, and I appreciate your comment about the paper generated by
11 what we are doing. We have tried a lot of different ways to get
12 responsiveness on things like safety and health, and we are not yet satisfied
13 with the results.

14 I would ask that this group -- I am not here to talk to you; I am also
15 here to hear from you. I am open to any suggestions you have. We have
16 generated a lot of paper. We have gotten hoarse talking to people, and we are
17 still not getting the kind of results we want from DOE people, from managers,
18 supervisors, the workers themselves. Across the board, it is not the way we
19 want it to be. So, we are open to suggestions on that.

20 CO-CHAIR COSTLE: Jay?

21 DR. SORENSON: I have just a quick question. Is the injury or the
22 accident and death rate going up or down; and is there a trend line?

23 MR. SCOTT: The statistics are very misleading, so it is dangerous -- I
24 mean, certainly, the fatalities went up during the last year and a half, when
25 we had four fatalities in roughly a year in EM activities; but we are fairly
26 careful about using statistics because of the way in which they can mislead
27 us.

28 One of the things the Department has been able to demonstrate, in some
29 lost-work-day incidents and things like that, is that they are better than
30 industry; but then, even EH, who puts together the data, has pointed out to us
31 recently that our statistics are a little misleading because we include a lot
32 of administrative folks in the base number that aren't included in industry.
33 So, there are numbers out there.

1 I am more interested in figuring out how we are doing and having a base
2 line to move forward to improve on than -- I am a little leery of making
3 comparisons.

4 DR. SORENSON: Are the trend lines up or down?

5 MR. SCOTT: The fatality trend line is up for the last two years.

6 MR. GRUMBLY: Occurrence reporting is up across the system. I think
7 what Randy was alluding to is you don't know whether that is more incidents or
8 better reporting at this point.

9 MR. SCOTT: Right.

10 MR. GRUMBLY: Because we are now encouraging people to report things
11 that maybe they would have stuffed under the rug before, but I can't sit here
12 and tell you that we exactly know where we are right now; and that, of course,
13 is a very unsettling place to be, unlike the cost situation, where know
14 exactly where we are.

15 CO-CHAIR COSTLE: Ellen Livingston is here now. So, let's take Ron's,
16 and then move to Ellen.

17 MR. SCOTT: Actually, I have another.

18 MR. GRUMBLY: Why don't we give you a break and let her do her thing.

19 MR. SCOTT: Okay.

20 MR. KUCERA: Very quickly, Randy brought up some things that generated a
21 question for you, Tom. Jerry Christean, Jim Lapping, and I are the Community
22 Health and Worker Safety Committee. You have been talking about this thing
23 that OSHA might take over or be seriously involved in the management of the EM
24 projects. Tom, is there a detailed critical path that shows how we are going
25 to get to the promised land by 1996? It is really not that far away. We are
26 almost into 1994, and I was wondering if the additional employees in EM are
27 part of that critical path.

28 MR. GRUMBLY: They are part of the critical path, but to be honest, I
29 don't know if we have an exact critical path diagram that can show you where
30 we are at the moment.

31 MR. KUCERA: If there is one, could you share it with our Subcommittee?

32 MR. SCOTT: There isn't one to my knowledge. I think, and I was a
33 little bit surprised with the comment about we're not really going after OSHA.

1 Certainly, I didn't make it clear in the presentation that we are looking for
2 OSHA enforcement, but I thought I made it clear that we are going to try to do
3 a better job of adopting OSHA requirements in the mean time.

4 I think what EM needs to do, in my mind -- I haven't talked to Tom about
5 this, so I will qualify it with that statement -- is proceed, assuming it is
6 not going to happen any time soon and do the best we can for this interim
7 period.

8 They are going to have to get more people at OSHA. They are going to
9 have to train them. This is something that EH is involved in with OSHA. 1996
10 is a very ambitious schedule.

11 MR. GRUMBLY: I hear what you are saying, and I think that if DOE
12 doesn't have that, that is an extraordinarily good suggestion, that we develop
13 the critical path. What I will commit to you is that by the time we get
14 together again, I will tell you exactly where we are on the critical path and
15 see if we can't bring our colleagues from Environmental Safety and Health with
16 us and on to the path of making sure that we do have a critical path.

17 MR. KUCERA: Thank you very much. I just think that it probably is
18 going to require fairly significant budget coordination among, not only EH and
19 EM, but also OSHA, if suddenly they are expected to carry the ball as far as
20 budget the last year.

21 MR. GRUMBLY: Yes. I think that is right, and I think that the way you
22 have phrased that question is a good thing to energize us to bring it back to
23 you.

24 CO-CHAIR COSTLE: Ellen, why don't you come up at this point.

25 MR. GRUMBLY: Give Randy a rest a little bit.

26 CO-CHAIR COSTLE: We will have time to direct questions to both Randy
27 and Ellen. Our hope is to break for lunch by one. We want to get back into
28 this operation by two. If we will slide a little past one, we will just eat a
29 little quicker.

30 MR. CHRISTEAN: Now, we see why we need to vote on chairmen.

31 MR. GRUMBLY: Ellen, why don't you introduce yourself. Some people may
32 know you.

33 MS. LIVINGSTON: My name is Ellen Livingston. I work in Tom Grumbly's

1 office, where I am the Director of the Programmatic Guidance and Compliance.
2 My major responsibility is working with our program offices and field offices
3 in the negotiation of enforceable agreements. We also take a look at
4 litigation that is going on and work with our Office of General Counsel and
5 really track our performance under our agreements.

6 First of all, Bill, I wanted to let you know that I had extra copies
7 made of the presentation materials when I heard you were in the paper
8 industry.

9 What I wanted to do today was very briefly run through the enforceable
10 compliance agreements that we have established to date and the reasons that we
11 have developed the agreements.

12 I apologize for the folks in the back of the room. This apparently is
13 as good as we are going to be able to do. What I will do after this
14 presentation is have additional copies made so that all of you would be able
15 to take a look at what we have discussed here.

16 In terms of the agreements that we have established today, to give you a
17 little background, first of all, they are legally enforceable; and we enter
18 into the agreements with either our State regulators and/or the US
19 Environmental Protection Agency. They include specific activities and
20 schedules that we must undertake to meet requirements of environmental laws
21 and regulations.

22 We have defined our agreements into two major categories: First are
23 what we call Compliance Agreements, and these typically address very specific
24 activities and work that is needed over a short term to come into compliance
25 with environmental requirements. Specifically, they do allow, or the
26 regulator allows us, to continue operations at the facilities while we are
27 working under those agreements.

28 In the area of clean-up agreements, we refer to those as agreements
29 related to cleaning up inactive portions of our sites or facilities. Those
30 agreements are specifically required to be entered into with US EPA or the
31 States under the terms of CERCLA or the Comprehensive Environmental Response
32 Compensation and Liability Act.

33 Those agreements typically also include a RCRA portion or a portion that

1 addresses clean-up activities that would be conducted under the Resource
2 Conservation and Recovery Act.

3 In terms of the numbers of agreements that we have entered into to date,
4 since 1979, we established 93 agreements. Not all those agreements are in
5 effect at this time. We have about 22 that have been set aside or that we
6 consider to be inactive, because we have either corrected the deficiency or
7 the agreement has been superseded by a more comprehensive or all-encompassing
8 agreement.

9 We do have 71 active agreements. Within the total of the 93, we have,
10 if you were to break it down, 76 compliance agreements. Those would focus on
11 violations that we are working to correct under the RCRA, the Clean Water Act,
12 the Clean Air Act, for example. We also have 17 clean-up agreements, all of
13 which are active, that we entered into under CERCLA to address our sites that
14 are on the national priorities list.

15 I should note also that we have negotiations going on for about 20 other
16 agreements. In some cases, those would be new agreements. In other cases,
17 those would be to modify existing agreements.

18 A major component of each one of our enforceable agreements are what we
19 call "milestones." By milestones, what we mean are the activities, and very
20 specific activities, and the work schedules that the agreement calls out. We
21 establish both the agreements and the specific work schedules in a major
22 effort to comply with an Executive Order known as 12088.

23 That Order really had three major parts. First, it required all Federal
24 agencies to comply with environmental pollution standards. A second factor,
25 and one that we have taken very seriously and have had some difficulty
26 addressing, is that it requires each agency to request sufficient funds each
27 year to ensure compliance. There has been a big debate about that adequate
28 level of funding. I see Jeff cringing when I mention that one.

29 Also, it requires that we obtain regulatory approval on plans to bring
30 the facilities into compliance. So the agreements basically set out our plan.
31 They are approved by a regulator, and they hit that last requirement of the
32 Order.

33 In terms of the number of milestones that we have, these are estimates;

1 but right now, in Fiscal Year '94, which began in October of this year, we
2 estimate that we have 342 milestones that will be enforceable against us; and
3 in Fiscal Year '95, there are approximately 344. We expect the numbers of
4 milestones to go up, and in some cases, perhaps dramatically, as a result of
5 facility transition, where we are accepting more and more facilities from
6 other DOE programs that are scaling back; and also as a result of new
7 statutory requirements.

8 The one that is noted on your view graph is the one that we are spending
9 the most time addressing right now -- through Jill Lytle's office -- and that
10 is the Federal Facilities Compliance Act, which addressed mixed-waste
11 planning. It had a number of deliverables that we owe the States and US EPA
12 over the next couple of years.

13 Jeff, did you have a question?

14 [No audible response.]

15 MS. LIVINGSTON: What I wanted to spend a minute talking about next was
16 the nature of the agreements in terms of what they actually look like and how
17 they work.

18 Our older agreements were typically established to cover a very long
19 time period. For example, the Hanford Agreement originally ran through the
20 year, I think, 2018. Rocky Flats had similar long-term milestones in it. We
21 had a number of problems as we have actually worked under these agreements and
22 have tried to implement them.

23 The first that we have discovered, along with our regulators, is that
24 the agreements tend to be inflexible in terms of their ability to address
25 changes in the facility operations or to address uncertainties that we have
26 dealt with related to appropriate clean-up or compliance actions.

27 In some cases, we were in the very early stages of investigating a site
28 when we established the agreement, and we weren't really sure what the best
29 clean-up or corrective action was; and we made our best guess. That is
30 causing us some difficulty now, in terms of forcing the need to go back and
31 renegotiate.

32 We have also found that the agreements tend to be inflexible in terms of
33 their ability to allow the incorporation of new technology developments. What

1 we typically did was spell out milestones that required use of existing
2 technology, and I think a number of people have pointed out that that is
3 probably not the best way to do things.

4 They also require frequent need to renegotiate activities and
5 milestones. As we go along, we discover that there are a lot of areas that
6 need adjusting. I think the last major area is that we, in laying out those
7 milestones, have been unable to guarantee or ensure that there will be
8 adequate funds to cover them. The longer and longer we project out with the
9 milestones, the more and more we become separated from Congress' spending caps
10 and our budget estimating ability.

11 Given the experience that we have had, what we tried to do in new
12 agreements is work with regulators to develop a more flexible approach. By
13 flexible approach, what I mean is we have tried to establish milestones that
14 are required under the agreement that cover either an annual or a phased basis
15 or a phased period.

16 By phased, I mean either, for example, a three-year period or a phase
17 related to a certain type of activity. One example would be that milestones
18 would only cover the design of a treatment facility. Once we actually had the
19 design, we would sit down with the regulator at that time and establish new
20 milestones for construction.

21 The characteristics of these agreements include the ability to establish
22 milestones on a much more flexible basis. As we learn along with the
23 regulators what the nature of activities at the facilities are or should be,
24 we are better able to address technology development when we sit down with our
25 regulators on an annual or regular basis.

26 We have been better able, I think, to have more informal discussions
27 about some of the major areas of uncertainty and work with our regulators to
28 try to address that in terms of milestones.

29 To assist us in our budget planning, because one of the big concerns
30 that are regulators' has been that a more flexible approach doesn't
31 necessarily bind us -- by "us," I mean the Department of Energy -- to seek out
32 adequate funding, we have tried to use what we call nonbinding site management
33 plans.

1 Basically what it does is it tries to spell out what the appropriate
2 activity or schedule should be. We use that on an annual basis to establish
3 enforceable milestones, but the management plan is not enforceable against us.

4 I should note that in all of our agreements, we do have provisions that
5 allow the Department to request extensions or modifications to its milestones.
6 Where there is disagreement on the part of the Department and its regulators
7 as to whether a modification is appropriate, we also have the right in nearly
8 every agreement to invoke what we a dispute resolution, which is basically a
9 formal process aimed at trying to resolve the issue.

10 The problem that we have, though, and that we do need to address in our
11 planning is that the regulators are in control here. Where they do not agree
12 with the proposed modification, there are several actions that they can take.

13 First, most of our agreements do allow for the imposition of fines and
14 penalties. They can also issue an injunction or basically enjoin the activity
15 that produced either the waste or the area of noncompliance.

16 Finally, the other major action that they can take is to issue what we
17 call "unilateral enforcement actions," where they basically tell us what we
18 need to do to correct the problem; and there is no negotiation. They tell us
19 what we need to do and on what schedule we need to do it by.

20 In terms of our real performance and our ability to hit our milestones,
21 our track record isn't great. In Fiscal Year 1992, we had a miss rate of
22 about 12 percent; and in Fiscal Year 1993, it got worse. Out of 478
23 milestones, we missed 123 of them, which meant that we were missing almost 26
24 percent of our milestones.

25 Now, when I say "miss," in some cases, it didn't mean that we basically
26 allowed the milestone to go by and that the regulator had to take action
27 against us. In a number of cases, we knew we were having troubles. We let
28 the regulator know, and we worked with them to modify the milestone. We still
29 counted it as a miss, though, because it indicated an area where we had
30 originally come up with one schedule and had to modify it.

31 To talk about for a second the reasons for missed milestones. These
32 aren't meant to be in any type of order in terms of what the driving force has
33 been. It really has varied on a case by case basis. One common reason has

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1 been that the scope of work has changed as we began the activity or began to
2 work though it. In some cases, the regulators identified some additional
3 issues, compliance issues that we had to work on. In some cases, they
4 requested additional data and in some cases, we discovered new problems as we
5 began working on a specific milestone that basically affected our ability to
6 meet the schedule.

7 In some case we just were technically unable to accomplish the work
8 because of lack of available technology. We are especially in a bind when it
9 comes to mixed waste treatment.

10 The last major category relates to the Department and the Department's
11 contractors own deficiencies and, that is, the deficiencies in performance.
12 What I tried to do here is give some examples.

13 Those performance problems can include poor project management, lack of
14 an experienced work force so they don't really know what is required of them
15 or how to do it; an inadequate basis for establishing the milestones where we
16 didn't do a good enough job in terms of actually studying what was needed to
17 support a milestone before we allowed it to be established in an agreement.
18 Delays in issuing contracts that would be required to support the work.
19 Finally, delays in -- and this has been a really big problem on our part -- is
20 a delay in actually drafting reports that are due to the regulators and our
21 own inability to come up with accurate estimates as to how long it actually
22 takes to draft those documents.

23 In terms of actually implementing the agreements, we have had a number
24 of problems really. I just wanted to kind of run through. I tried to
25 categorize them.

26 The regulators in particular, I think, have been very concerned about
27 our budget constraints and have expressed real concern about our use of OMB
28 targets in budget planning. They have challenged us basically to identify
29 whether that is really appropriate.

30 They also have noted under Executive Order 12088, we are required as an
31 agency to request adequate funds and are ability to use OMB targets is the
32 final say for developing budgets for submittal to the president or OMB is
33 limited. Our regulators have also noted real concern or frustration with our

1 ability to show budget information with regulators on a timely basis.

2 Right now, the Department is operating under OMB procedures that really
3 protects budget information when the budget actually begins to be formed. I
4 think Hanford was our first effort to kind of break that pattern and establish
5 a new test case. Jeff could probably describe it better than I. Basically
6 what we have agreed in recent tri-party agreement negotiations to do is to
7 provide the regulator preliminary information developed by the field office
8 that they then pull together in a submittal that comes to headquarters.

9 The next big issue that is being addressed right now is whether we can
10 also share the Department's request that goes over to OMB for consideration by
11 the president.

12 We have also had a lot of trouble in dealing with regulators. There, it
13 is kind of hard to predict. Sometimes we do much better and other times we
14 don't have a real good success rate. In some cases and, I think, depending
15 especially on the past performance of the Department at its specific
16 facilities, we have had a lot of pressure from regulators to sign agreements
17 without real detailed consideration of our practical ability to hit the
18 milestones. Basically, they feel that we have delayed compliance too long.
19 They want very aggressive schedules and they are not particularly interested
20 in having the Department do a very, very detailed resource analysis.

21 Our regulators, I think, very consistently have also indicated a strong
22 preference for long term milestones. We discussed a little earlier some of
23 the reasons. One of the main reasons is the concern that if we don't have
24 long term milestones, number one, we will not have the same level of
25 commitment to actually cleaning up the site. There is also the concern that
26 if we don't have long term schedules, we aren't going to be doing the advance
27 budget planning that we need to support the activities of the facility.

28 We have also had a great deal of trouble in using what we call model
29 language. The Department of Energy, the Department of Defense and the EPA,
30 back in 1988, established a package of what they called model provisions that
31 could be used consistently in agreements to address some of the major issues
32 that we knew would arise every time we negotiated an agreement. Those
33 provisions are basically dispute resolution funding commitments, cases of what

1 we call force majeure, which are instances where the regulator agrees that we
2 will be basically let off the hook if we don't meet a milestone because
3 something has happened that is beyond the Department's control.

4 Those model provisions have basically, at this point, I think, come to
5 the point where they are rarely used or if they are put in the agreement, they
6 go through substantial revisions. It makes the negotiating process a very
7 time-consuming one. The concern that we have had also is that, when we agree
8 to make a change for one State in an agreement, it is only fair to offer the
9 same arrangement or deal to any other State that negotiates a similar
10 agreement.

11 We have also had some difficulty in terms of addressing some of the
12 jurisdictional authorities of both the States and US EPA. It is particularly
13 noticeable when you take a look at CERCLA and RCRA agreements where there is a
14 big overlap and in some cases where States and the US EPA has disagreed about
15 who has ultimate jurisdiction over the cleanup of a facility.

16 Another major area of difficulty we have had in working with regulators
17 is failure to use what we call informal dispute resolution procedures. What I
18 mean by this is the ability in some cases for us to sit down with our
19 regulators before it becomes a full-blown disagreement and has kind of
20 disappeared. I think again that the worst our performance has been in a
21 facility, the less willing our regulators have been to use more informal
22 procedures.

23 Another major area that has caused us some concern is the increased use
24 of fines and penalties when we violate an agreement. We do accept the
25 imposition of fines and penalties, but we do have a concern also about the
26 size of those penalties. Since we are using the same budget to both work on
27 the compliance, the cleanup program and also pay the fines, there is kind of a
28 difficulty in terms of fines and penalties having the potential to kind of
29 drain our budget.

30 In terms of EM management weaknesses, as I noted before, we have had a
31 number of instances where we have failed to accurately assess the resources
32 needed to actually accomplish the milestone. By resources, I mean both
33 manpower requirements, schedules related to construction and design and also

1 funding requirements. That's a big problem and one that we have really tried
2 to focus on over the last several months.

3 Another major failing on our part has been the inability to adequately
4 track our commitments and give timely notice to the regulators where we know
5 we are running into difficulty. I think in a number of cases, not only did we
6 fail to adequately track the commitments, but once we realized we were in
7 trouble, we hoped that we would be able to make up for lost time and we didn't
8 notify the regulators. Obviously then, if we really did run into trouble, the
9 regulators were surprised and unhappy.

10 That was the list of problems. We also have a little checklist of
11 things that we have identified as needing immediate action to see if we can't
12 turn things around or do things better.

13 In the area of our budget, we have begun to coordinate much more closely
14 with the Office of Management and Budget on procedures for sharing budget
15 information. I think our negotiations in the State of Washington and US EPA
16 on the Hanford agreement were a real test case and had really assisted in
17 getting that coordinating process going. We obviously have a long way to go
18 through before there is a well established policy that we would be able to
19 offer to all States and EPA regions.

20 Because of the budget constraints, we also are having to take a look at
21 what procedures can be used on an interim basis to make sure that we share
22 preliminary cost estimates of technical work of the regulators. What we have
23 tried to do in order not to conflict with OMB guidelines is to make sure that
24 where we have cost estimates for accomplishing technical work that is spelled
25 out in the agreement that, we do share those with our regulators and request
26 their comments.

27 The rule of thumb has been, once we get those comments and actually
28 begin to factor those cost estimates into our budget submittals that it is off
29 limits. We feel that if we can at least make sure that our regulators get the
30 preliminary cost estimates, they are obviously in a much better position than
31 they have been in the past.

32 In terms of our interactions with regulators, we are continuing to try
33 to negotiate agreements that do have annual phase milestones. It does seem

1 like it is a more workable process to us. It also, we believe, cuts down the
2 number of formal disputes that go on because it has a more informal dispute
3 resolution process built into it.

4 We have an ongoing effort to work with US EPA to take a look at the need
5 for revising our model provisions. To be quite frank, we haven't made a lot
6 of progress there. Some of the issues are the types of provisions that we
7 focus on as needing immediate attention or are funding provisions and
8 stipulated penalty provisions.

9 In terms of coordinating with States and EPA, we are hoping that if we
10 do a better job of giving advance notice of difficulties, that we will be able
11 to promote the use of informal dispute resolution. So, especially in Pat
12 Whitfield and Jill's side, I think they have given the message to field
13 offices that they should give immediate notice to the regulators and follow it
14 up in writing where they even begin to have some concerns about whether they
15 will be able to hit a milestone. This is a new trend, because before we
16 waited until we were served. Then by the time, usually it was awfully close
17 to the actual deadline.

18 In order to address the concern about where the money comes from to pay
19 fines and penalties, we also have recently tried to negotiate with our
20 regulators where a penalty has been assessed a settlement based on
21 environmentally beneficially projects or, at least, a split penalty that has
22 one component that allows us to devote a certain amount of money to an
23 environmentally beneficial project. A second component of the penalty would
24 be an actual monetary fine.

25 We think that there are few benefits to this based especially on our
26 Fernald experience where we paid several fines. The main benefit is it allows
27 us to work with the communities to say what types of environmentally
28 beneficial projects are acceptable to them. Also, I think it reassures them
29 that there isn't going to be a big drain on the money that is committed to
30 that site through our payment of our fine. So, that does seem to be something
31 that is working. We are not successful in every negotiation, but we are
32 making some progress in that area.

33 In terms of management actions that are underway, we have since Tom came

1 on board started a couple of new initiatives. One is that we are requiring
2 our field offices before they sit down with the regulators and begin to
3 discuss milestones to do a very careful resource analysis, so that they can
4 communicate to the regulators what they think is realistic and also what the
5 assumptions were in terms of coming up with some proposed milestones.

6 We are also working to upgrade the Progress Tracking System or PTS as we
7 refer to it, in order to have a much better system for tracking our milestones
8 on an ongoing basis. The system has been around now and almost workable for
9 about two years. We have a long way to go. There are still big gaps in the
10 system in terms of the milestone inputs that we receive from field offices.
11 If we can make those corrections, that should be a very helpful management
12 tool, I think, both to Tom Grumbly in his office and also to the field
13 offices.

14 We are also working on some specific management improvements to promote
15 financial and administrative accountability. One of the major emphases as Tom
16 noted is to take a look at the award fees that we are paying and work much
17 more closely with the contracting officers to take a look at performance.
18 Where our contractors have not been able to comply with a milestone or have
19 discovered an area of non-compliance, to determine and really analyze what
20 caused the problem, whether it was a failure on the Department's part to give
21 adequate guidance or whether it was a failure on the contractor's job to do
22 their job and then to follow that up in terms of an award fee or adjusting the
23 award fee to basically calibrate their performance.

24 The last major initiative is one that we began at Tom's request in
25 August of this year. This is an effort to take a look at all of our agreement
26 milestones, to identify which ones might be candidates for renegotiation. The
27 effort here is especially for agreements that were very long term in nature
28 and, in some cases, inflexible to take a look and see what has changed at the
29 facility due to the change in mission of the Department, because of new
30 technology development or, in some cases, due to a better understanding of our
31 own ability to perform.

32 I should note that we don't mean this only in a negative sense in terms
33 of delaying milestones, but also taking a look at our agreements and

1 identifying what activities we could accelerate and basically finish up on a
2 much faster schedule than we had originally projected.

3 So, that is the status of our work under enforceable agreements. Thank
4 you very much. I also wanted to tell you how much I appreciate your patience
5 in waiting for me. I don't know if Glen told you. I first got stuck on the
6 Metro and then in despair, jumped in a taxi, which ran out of gas.

7 My only good news is, he gave me a 50 percent discount. Anyway, I do
8 appreciate the time and I'd be happy to take any questions that you might have
9 now.

10 MR. GRUMBLY: Well, I think that in Ellen's kind of low-key, direct way
11 you just heard about the heart of this program. So, I would encourage
12 whatever questions we might have and begin now and maybe even continue
13 informally over lunch and come back to it. This is really obviously what
14 drives the program.

15 CO-CHAIR COSTLE: Tad?

16 MR. McCALL: Ellen, having often been on the other side of the table
17 from you, I'd like to say that I found your presentation to be pretty fair, a
18 pretty fair assessment. I had some quibbles as I went along, but I would say
19 overall, this was not a biased assessment. It was an assessment down the
20 middle and I appreciate that.

21 I think some of the comments you made about the regulators' behavior, I
22 just want to trace to this. Part of it was a response to the fact that, the
23 Department of Energy is very tough to deal with. You are hard to trust and
24 you didn't conform well. That made it tough for us to be flexible.

25 What I hear --

26 MR. GRUMBLY: You should have been very comfortable.

27 MR. McCALL: I hear that our initiative is underway right now to make it
28 easier to deal with you, make it easier to trust you and to approve your
29 performance. I think that will then change the way the regulators and the
30 public deal with you.

31 MR. GRUMBLY: Let me say we appreciate that, but we have a fundamental
32 problem, which is fairly evident here. You know, President Reagan used to say
33 trust, but verify. I think it is fairly evident that when you take a look at

1 the number of milestones that we are signed up for and the percent that we are
2 missing, that this is a whole area that we are really going to have to grapple
3 with together.

4 While we may be easier to deal with and I think we are a lot easier to
5 deal and we will get even easier to deal with around the system, we are not
6 going to be able in the near term to get away from some of the fundamental
7 problems that exist in at least some of our agreements as well as our own
8 performance. So, kind of grappling with that is going to be tough.

9 I was reminded the other day, I looked at an interview that a former
10 Under Secretary gave to one of the Department's Historians about why the
11 Department signed up to as many agreements during the previous five years as
12 they did. I always had my suspicions about why this was the case, but here in
13 black and white was the former Under Secretary saying, well, we signed up to
14 these things, not because we ever cared about whether we were going to comply
15 to them, but so that we could continue producing weapons.

16 Well, we are out of the weapons business, for the time being at least,
17 thank the Lord. We obviously still have all of these agreements that are the
18 fundamental driving force of the program. While we are quite grateful, for
19 example to Jeff Breckel and his colleagues in the State of Washington for
20 being willing to engage in what I think was a mutually acceptable and mutually
21 beneficial renegotiation, the amount of effort that it would take is going to
22 be enormous to try to get the rest of these things into some kind of shape
23 that we all know that we could really live with in the future.

24 In addition, there is the fundamental problem that, when these were
25 signed up for, they had this sort of full faith and credit of the United
26 States behind them. The fact is, I mean, whether we want to get around it or
27 not, the fact is that, not all of these agreements were signed up really with
28 the intention of having the full faith and credit of the United States behind
29 them. We are going to have to grapple with that problem. It falls on us to
30 do that.

31 It was a great presentation, but it presages a big problem that we are
32 going to have to confront.

33 CO-CHAIR COSTLE: Thomas.

1 MR. WINSTON: Well, I agree that it is a big problem and I would urge
2 the Department not to try to solve it in a vacuum. To that end, the issue of
3 the very poor compliance record has been an important issue to the State and
4 Tribal Governments Working Group. We have tried to begin to look at the
5 cross-cutting issues that result in that compliance record. One of the things
6 we have proposed -- and we talked to Cindy Kelly about this at our November
7 meeting was a workshop where we really dissect success stories and failures to
8 try to determine with both State and federal compliance officers from State
9 and US EPA, DOE project managers, try to determine why some projects succeed
10 and why they fail at other sites.

11 I think we have come to the determination that while, yes, we spend a
12 lot of time arguing over budget numbers, the fact is, the bulk of the non-
13 compliance issues, if you start to look down at where the rubber meets the
14 road, are due to poor communications, inadequate training of people involved
15 maybe on all sides. We can do a lot better with what we have right now.

16 I guess my point is that, the point I'm trying to make is that, if you
17 try to solve these things -- I appreciate your list of initiatives, but if you
18 try to resolve those independent of the people that you are going to be
19 looking at across the table, you're not going to maximize what you can get
20 accomplished. I would urge that as the first point.

21 MS. LIVINGSTON: That is partly a failure in my reviewing those
22 initiatives. There are some that are, at this point, in-house, but we are
23 assuming that all of them will be shared first with our regulators,
24 particularly in the area of taking a look at the agreements and the agreement
25 milestones to see if there is area for improvement. We recognize that it is a
26 wasted effort if we don't work closely with our regulators. What we are
27 trying to do right now is do our homework so that we have something to present
28 to the regulators.

29 That is a good point.

30 MR. WINSTON: We would really like to work with you on that.

31 A second point is that, I see somewhat of a change and maybe that is
32 just from my own experiences in Ohio. One of the problems we have experienced
33 is some tension between the regulators. In most instances, you are beholden

1 to two regulators the State or Tribal, US EPA. While I don't want to, I
2 guess, overstate the fact that there were lots, often we are not at odds. We
3 may have different resources. We may have different time lines for evaluation
4 of deliverables. The fact is, we are kind of in a new era.

5 One of the things we started to see and have been discussing with the US
6 EPA region that we deal with is a recognition that primary circle authority
7 has given to US EPA, but the bulk of the funding through cost recovery is
8 going to the States. We are trying to invent some new ways in which to, if
9 you take a look at the president's discussion of reinventing government, it is
10 a sorry state that the Federal Government might be paying cost recovery to the
11 state US EPA dollars which are dwindling.

12 Somehow or the other, we have to look at the issue of how can we most
13 effectively and efficiently get to the bottom line of what is most important
14 for the site from a compliance standpoint. At some of our sites, we fight
15 more between the regulators than we do with the regulated entity and something
16 is wrong with that picture.

17 So, I don't know if you have any comments on the direction you see from
18 a national standpoint. You and I have had discussions on some of the Ohio
19 sites that we have been discussing.

20 MS. LIVINGSTON: Well, I guess just two comments.

21 I guess our view is that this administration has committed to taking a
22 hard look at EPA's needs. The Office of Management and Budget has actually
23 proposed forming a federal facility work group. One of the top items that
24 they have on their agenda list is the need to address what an adequate level
25 of support should be for the US EPA in terms of all the areas that the agency
26 has identified to date as having shortfalls.

27 Tom, did you want to address anything else?

28 MR. GRUMBLY: Well, I think that you are right in your assessment. In
29 addition to this group, which is not just a proposed group anymore, but Alice
30 Rivlin, the Deputy Director of OMB is going to head the group. We are also
31 committed to, in the course of our Superfund proposals, to see if we can't
32 find some way to deal more effectively with the overlap between State and
33 federal responsibilities, particular in regards obviously to CERCLA and to try

1 to find some ways to increase the power of the States and to provide the
2 opportunity for States to take, in some cases, unilateral control over the
3 situation if they are willing to abide by some newly developed and, hopefully,
4 scientifically based that everybody has bought into standards at particular
5 sites.

6 The notion is that, it is important to see if we can't make some
7 progress in some of the overlapping problems that affect everybody in the
8 system.

9 MS. LIVINGSTON: I guess the one last thing that we have tried to do
10 recently is convert some of our two-party agreements that we have with US EPA
11 to three-party agreements to also include the state. Your State is one
12 example where we recently did that for the agreement that we had at the mound
13 site. We are also working with the State of Missouri to take a look at the
14 Weldon Springs site.

15 I think to the extent that we can have three-party agreements and at
16 least everybody sits down at the same meetings and participates in the plan,
17 we see a real benefit. I think the results at Hanford and some of our other
18 sites have been kind of a good learning experience and kind have served as a
19 model.

20 MR. GRUMBLY: I think what we need to do is come back to a discussion
21 that we had before you came in. We need to find a way to factor in the Indian
22 nations too when that is appropriate.

23 CO-CHAIR COSTLE: Jay.

24 DR. SORENSON: Your phrase on page 12, "environmentally beneficial
25 projects," is the word beneficial used ambiguously, loosely or is it technical
26 or is it used legally as it is in southwestern water law? And if it is
27 technical or legal, what does it mean?

28 MS. LIVINGSTON: It is used in a more generic sense and it is kind of a
29 vague phrase. In some ways, we did it deliberately, because we basically
30 tried to negotiate with the local communities and a regulator on a case by
31 case basis to decide what the best project is. A rule of thumb is that, it
32 should be something where there is a direct benefit to the actual site.

33 At some of our sites, communities have proposed projects that are

1 unrelated to the Department of Energy or the Department site. That, we feel,
2 is kind of across the line. What we are trying to do is something that is not
3 in some cases required by law, is not currently not covered in our plans or
4 management plans, but that would be a real benefit or of interest to the
5 community.

6 I think there was one question over here, where your tag fell down.

7 CO-CHAIR COSTLE: Jeff.

8 MR. BRECKEL: Thanks a lot. I appreciate your presentation as well. I
9 would like to echo the sentiments that Tad had.

10 I guess if I were to make one comment, I would say I think we actually
11 getting highlights of the more positive experiences we had. I know at least
12 at Hanford is perhaps an object lesson as to how the regulators and DOE can
13 work towards coming to a common understanding. I think the negotiations we
14 went through at Hanford were very positive and a productive step in that
15 direction, although I think initially we were little concerned as to whether
16 or not that we would be the case.

17 I think what we found was that both parties were willing to sort of set
18 aside positions and bring interests to the table and find some way to
19 accommodate those interests. That is a big step on the behalf of DOE and I
20 know the State and EPA as well appreciated that, because I don't think we
21 would have gotten to where we needed to go.

22 I think underlying all of this and underlying the success in terms of
23 the implementation of these agreements is the fact that we need better
24 coordination and cooperation from the very early planning all the way through
25 tracking progress. That needs to involve not just the regulators and DOE, but
26 needs to involve the tribes and the public as well. So, we have so common
27 expectations as to what will be done and we will have early identification of
28 problems and allow us to handle these issues before they become a divisive
29 crisis out there that we end up in the courtroom trying to dispute.

30 Clearly, at Hanford, we have enjoyed a very productive relationship with
31 EPA. We have had no divisiveness to that relationship at all. I think that
32 has reflected in terms of some of the pilot activities that we have taken on
33 in this revised agreement in trying to come up with new pilot programs that

1 will streamline some of the regulatory procedures on the site, trying to look
2 for new efficiencies in how work is done. DOE is making commitments to reduce
3 its costs, the regulators making commitments to reduce regulatory burdens to
4 further than end.

5 So, I appreciate the efforts the DOE brought to the table and I think
6 there are some good lessons to be learned there. We have some times, I think,
7 in terms of trying to make it all work.

8 MS. LIVINGSTON: Well, thank you for your comments and I should
9 emphasize that the tri-party agreement negotiations were a real success from
10 our standpoint. Also, I think we learned a lot from them.

11 One of the things that Jeff didn't note is that the State basically took
12 the lead in forming a community work group to identify what principles were
13 important to them and that should be addressed during the renegotiations.
14 That was a completely new concept to us. Before, as you noted, we hadn't
15 really focused our attention on our regulator. I think that that in
16 particular is something that we need to apply to other facilities, both in
17 establishing new agreements and taking a look at agreements that are having
18 troubles.

19 MR. GRUMBLY: I think the establishment of the working group, I think we
20 called it technically, really helped discipline the negotiation --

21 MS. LIVINGSTON: Yes.

22 MR. GRUMBLY: -- in an important way. It kept both us as well as the
23 State from being able to make -- particularly us -- from being able to make
24 unwarranted assertions about what the public wanted to see. I think when you
25 are in a negotiation, if it there is the usual sort of negotiating behavior
26 about what the truth is in the world. It was very helpful to have a group of
27 people who were spread across the spectrum that you could say, no, wait a
28 minute. We have asked the group what they think is important and here is what
29 they think is important. If we need to go ask them again, we can do that.

30 So, instead of kind of speaking to the crowd, we were actually able to
31 speak to a group that could give us some guidance. I think that was a very,
32 very positive thing.

33 MR. BRECKEL: I think it was as well. It allowed us to focus on what

1 that broad range of stakeholders and the public wanted rather than on each
2 other's positions.

3 MS. LIVINGSTON: Right.

4 MR. GRUMBLY: Exactly.

5 CO-CHAIR COSTLE: Bill.

6 I should point out, by the way, we are now eating into our lunch hour.

7 MR. AYERS: I will make it real quickly.

8 Two questions. One, on sheets 9 and 10, you listed, gave us a whole
9 laundry list of reasons why milestones have not been met. Do you have numbers
10 associated with each of those? You don't need to give them to us now, but if
11 you do, could you provide them later?

12 MS. LIVINGSTON: Yes, we have numbers. We did what we call a root cause
13 analysis about six months for the previous year's performance and asked our
14 field offices to categorize them basically along the lines that you see on the
15 pages in front of you. I'd be happy to share them. I think that we need to
16 note though that, in some cases, we are not sure that we agree with the field
17 offices. There are an awful lot of root causes that point into the regulators
18 as the reasons for us missing the milestones in terms of the regulators
19 asking, for example, asking for more information.

20 I think our view at Headquarters has been that, in many cases, the
21 regulators have to ask for more information, because we didn't do a good
22 enough job in terms of developing a plan or some type of report. They have to
23 then come back and ask us to fill in the details.

24 So, we would be happy to share that, although I would kind of take some
25 of the root causes with a grain of salt, because I think there is a certain
26 element of defensiveness in it.

27 MR. AYERS: That's understandable.

28 The second question is, when you go ahead to negotiate an agreement, how
29 does Headquarters interact with the field office as far as providing support,
30 controlling the process, not controlling the process, things along that line?
31 Could you just real quickly give us the background on that?

32 MS. LIVINGSTON: Yes.

33 Tara O'Toole's office has actually issued guidelines in terms of the

1 procedures that should be used and then taking a look at those to see if they
2 are too stringent. The rule of thumb has been, however, that the field office
3 takes the lead in the actual day to day negotiations. The DOE Headquarters
4 offices, both within EM or the Office of Environmental Restoration and Waste
5 Management, our Office of Environment, Safety and Health and our Office of
6 General Counsel also identify one person who will be a lead on that agreement.
7 They usually don't attend the actual negotiating sessions, but they consult by
8 telephone.

9 Once the negotiations are complete, the rule is that the agreement has
10 to come back to DOE Headquarters in Washington for a formal review and
11 approval. It is a two-step approval process. First, it needs to come to Tom
12 for his approval. Typically, he takes a look at all the milestones we have
13 signed up to and ask for some reassurance from the field offices that they
14 realistically can do the work and also what kind of funding estimates they use
15 to see if it is realistically do-able under our budget estimates.

16 At that point, when he feels comfortable with it, he send it up to the
17 Secretary's office and she then approves the actual execution of the
18 agreement. So, it has been a long kind of multi-step process.

19 For some of our big agreements that require a lot of money, it is
20 probably the best process. For some of the smaller ones, I think it is
21 burdensome. I think Tara O'Toole's office is taking a look at the procedures
22 from that perspective to see if there are some instances where we can
23 streamline the process.

24 MR. GRUMBLY: Let me fill in a little of the informal piece. I think
25 that is the formal piece.

26 Before a negotiation gets started, if it is a significant -- we are
27 talking about significant negotiations. We will try to talk to the field
28 office about what are the instructions to negotiate. Sometimes, that is even
29 written down. Here are the things that we want to try to accomplish in this
30 agreement. Then as we -- Ellen is right. Basically, we try to delegate to
31 people who are actually on the firing line, the actual ability to negotiate so
32 that they are not constantly looking over their shoulder in terms of what they
33 are doing.

1 For example, on the tripartite agreement we did that, but we did that in
2 a special way. We appointed somebody from Headquarters to go out and be a
3 significant part of the negotiating team, recognizing that we were talking
4 about signing an agreement that is worth the gross national product of some
5 countries.

6 So, I'm not going to tell you that, on major agreements, there is going
7 to be a significant amount of interaction between the negotiators on the
8 firing line and Headquarters as well. We are trying very hard to have our
9 colleagues from the States and from the EPA who are out in the regions
10 actually be able to negotiate and not have the people that we send to the
11 table be puppets, because you can't do it that way.

12 MS. LIVINGSTON: There is one other element that I forgot to mention and
13 that is that we also send the agreement, once it has been negotiated, to our
14 controller's office. That office takes a look at it and discusses the
15 agreement and our ability to pay with the Office of Management and Budget. A
16 lot of States, especially in US EPA I guess as well, have expressed some
17 concern with that process. It basically came into being because of OMB's
18 frustration that we were signing up to agreements that we realistically
19 weren't going to be able to fund under any kind of realistic budget scenario.

20 So, it is really that kind of checks and balances system to make sure
21 that we don't put the Department in a position where it is not going to be
22 able to fund what it signed up to do.

23 CO-CHAIR COSTLE: Dick.

24 MR. BANGART: I have a suggestion and a couple of questions. The
25 suggestion.

26 The Department is apparently willing to negotiate the environmentally
27 beneficial projects under the threat of a fine. Would there not be merit in
28 terms of the Department's action to identify those beneficial projects in the
29 absence of threats or fines and perhaps implement some of those and maybe put
30 some kind of a line item, if indeed they are the things you would be willing
31 to implement under a threat are beneficial?

32 MS. LIVINGSTON: Yes.

33 Well, we have done that in some cases. I think Tom is going to have to

1 respond to your recommendation or suggestion that we consider a line item in
2 our budget. At most of our sites, we do have some projects that are not
3 required by law. At Rocky Flats, for example, we have a water diversion
4 project underway with local communities. There are a number of special
5 projects.

6 The bottom line though is that, we have kind of prioritized things to
7 focus first on legal complaints. That is eating up a huge chunk of our
8 budget. So, coming up with new environmentally beneficial projects is
9 something that we have reserved for these negotiations on a penalty and then
10 have to work to make sure we can pay for it. So, I think the short answer to
11 your question is, we do try, but this is basically on top of existing
12 projects. Also, it is something that we have to take a look at available
13 funding in order to be able to support.

14 MR. GRUMBLY: I think this points out an interesting problem and I think
15 we probably need to go to lunch and maybe continue this discussion afterwards.

16 For a lot of our sites, the big ones, we don't have what I would
17 consider yet to be sort of a really comprehensive, strategic plan for
18 everything that needs to be done. We're working hard at it. At Hanford, they
19 are very close, I think, to having one. Fernald will have one shortly. But a
20 lot of the places, we tend I think still to be driven too much by a list of
21 regulatory requirements that naturally people get focused on, as opposed to,
22 okay, what do we really want this place to look like or be like. So, we have
23 that ability to do a somewhat less linear kind of planning.

24 I mean, Ellen is right that, right now, the pressures are you do what
25 the compliance agreements dictate for you to do and those are really the first
26 priorities. I think we can, we will need to work harder to see if we can't
27 come up with some things that are not under absolute duress. It is tough for
28 us at the moment.

29 CO-CHAIR COSTLE: Dick, we can pick this up after. The restaurant will
30 only serve up to a certain hour. I think maybe we ought to take that break.

31 MR. BANGART: That would be okay.

32 CO-CHAIR COSTLE: Also, Glenn wanted me to announce that at the lunch
33 break, the Programmatic EIS Subcommittee will be meeting over lunch in the

1 hotel restaurant. Apparently there is an issue that didn't quite get
2 resolved.

3 MR. GRUMBLY: Okay, so shall we return at two o'clock?

4 CO-CHAIR COSTLE: Let's try to get back at two, so we can get underway
5 shortly thereafter.

6 [Whereupon, at 1:15, a luncheon recess was taken, to reconvene this same
7 day at 2:00 p.m.]

1 AFTERNOON SESSION

2 [2:25 p.m.]

3 CO-CHAIR COSTLE: To finish up the session that was going on just before
4 lunch, let me recognize first Glenn Paulson.

5 Glenn?

6 DR. PAULSON: Assuming that Ellen is still in the room, I wanted to add
7 my voice of praise for what was an excellent, if sobering, report, and in
8 terms of the Committee's reaction, I'd like to suggest that perhaps by
9 consensus we could conclude that the actions underway that she cited toward
10 the end of her presentation are ones that we would support. In particular,
11 based on my experience here in the Committee and elsewhere -- and many of you
12 have had other experiences -- the one that was titled "Sharing Preliminary
13 Cost Estimates of Technical Work With Regulators," I thought is a particularly
14 useful action in this regard.

15 I don't want to get into a big debate or propose a formal motion, but I
16 would like to suggest that as a consensus attitude, the Committee might give a
17 positive signal on all of those actions and especially that particular one.

18 CO-CHAIR COSTLE: Yes, sir.

19 MR. CHRISTEAN: Because I don't represent a regulator, never have, and I
20 don't claim any expertise, I'm going to offer a suggestion. My thought is
21 that maybe when we're looking at this problem, we're looking at it too small.
22 Maybe we ought to be looking at this problem, the opportunity to break new
23 ground, to settle them all, if you can imagine something like that.

24 CO-CHAIR COSTLE: I can.

25 MR. CHRISTEAN: So my suggestion to you would be to try to persuade the
26 administration to call a summit in which the President sits at the plank and
27 has his Cabinet there, those affected, have those States that are affected,
28 have everybody that's really vitally affected by the process because if one
29 side wins, they're taking it from themselves, and because there are so many
30 problems that are serious, DOE isn't going to get the job done for us if that
31 problem is not solved.

32 I don't believe we've got time to do them one at a time, and it is the
33 kind of a problem with a magnitude that it seems to me that maybe it's not the

1 dumbest idea I ever had.

2 MR. GRUMBLY: I haven't heard many of your ideas, so I'm reluctant to --

3 MR. CHRISTEAN: That's not exactly what I call a vote of confidence.

4 MR. GRUMBLY: I think you're on to something. I think it's at the place
5 where we need to think through, and I think one thing that this Committee
6 could really very usefully help us with is, as Steve Covey says, to think
7 about the end at the beginning.

8 Believe me, I related to what Ben was saying about a beacon, about
9 timing, and things like that. So it's part and parcel of that, but, when I
10 think about the problem of having, over the next 25 years, myself and my
11 successors renegotiate agreements -- because I don't think any of us can sit
12 here and say that we're smart enough to know what the year 2010 is going to
13 bring -- if we could see what "a comprehensive solution" would look like, it
14 would make not simply a summit, which I think would be an interesting thing to
15 do, but maybe even a presidential commission, something like that, a much more
16 realistic option. First of all, I'm saying I think that's a good idea.

17 But, as I've rolled this around in my mind and talked about exactly what
18 you just brought out to some people in the White House and to some folks in
19 the Congress, the question that they keep coming back to is: If not site by
20 site, what? What would it look like? I'm not smart enough yet to know what a
21 comprehensive solution to this problem, either statutorily or in terms of
22 structure or whatever, what it might look like in order to guarantee that we
23 would get to an end point with the amount of money that we need to have with
24 all the other kinds of things. So I would urge us to really put our thinking
25 caps on to what kind of comprehensive options there might be.

26 MR. CHRISTEAN: Mr. Chairman, may I have a follow-up on that?

27 CO-CHAIR COSTLE: Sure.

28 MR. CHRISTEAN: I've got an idea.

29 CO-CHAIR COSTLE: Okay.

30 MR. CHRISTEAN: You've had some successes. You've talked about Hanford.

31 MR. GRUMBLY: Right.

32 MR. CHRISTEAN: It seems like you could go to that and say there are
33 lessons learned from that process. There is how we're going to be able to do

1 it, and this is how we will do it.

2 MR. GRUMBLY: I agree with that, learning lessons from Hanford. Now we
3 have to learn lessons about implementation at Hanford, and we'll learn a lot
4 of new lessons there. It's not enough to have good ideas. You've got to make
5 them work.

6 But the issue of how we convert on something that worked at a particular
7 point in time with a particular set of facts -- and we did have a very
8 particular set of facts at Hanford which is to say we had this kind of thing
9 sitting out in the middle of the table called this vitrification plant for
10 high-level waste -- that basically the Secretary and I and the General
11 Accounting Office and the House Energy and Commerce Committee and a bunch of
12 other people said, "No, we're not building that. No. You can try to make us,
13 but we won't do it."

14 It was very frustrating, I think, for people like Jeff and his
15 colleagues to know that in an ironic way, in a situation where we almost have
16 -- we never have any leverage. I mean, we're like the fat kid with money
17 sticking out of our pocket, and people come around and slap us now on this. I
18 mean, we used to be Darth Vader, but then we sort of took the helmet off and
19 found out it was Baby Huey, you know?

20 MR. GRUMBLY: Normally, we have no leverage at all, and I'm being very
21 honest here.

22 MR. CHRISTEAN: Yes, you really are.

23 MR. GRUMBLY: I didn't have any wine at lunch either, but we had
24 something in that negotiation that we don't usually have. We have a turkey
25 project -- maybe they don't think it's a turkey, but a lot of people thought
26 it was a turkey -- that we could basically stand in concrete and say, "We
27 can't do this. You have to help us," and then, on top of that, us being able
28 to say, "And by the way, we really do want to clean this place up, and we're
29 willing to be flexible." My only point out of all this is saying I don't know
30 how transferrable the one experience is to all the other experiences that we
31 have around the country.

32 But you could be right. If the right "comprehensive solution" is to try
33 to set up a process for sort of a continuing -- I don't even know if

1 "renegotiation" is the right word -- continuing review of these, within a
2 framework that all of the stakeholders could say, "Look, we know these guys
3 are going to clean these places up. They're not going to head for the hills
4 on us," my feeling is if people had that kind of certainty around this, you
5 could do a whole lot of things, but the problem is that in a political
6 budgetary environment where those kinds of things are very tough to give, I
7 perfectly understand why people in the States would be very -- kind of
8 uncomfortable about any other options.

9 MR. BRECKEL: I think my observation is that we had had some unique
10 circumstances at Hanford, but I think we have some general principles that
11 apply, and one is, I think, being honest enough that we lay our interests on
12 the table; that we're not fixed on a particular position or a particular
13 facility, as it was at WIPP plant, but, in terms of putting together, with
14 regard to Hanford tank waste, a technically viable, sound, and reasonably
15 scheduled project or program for that, and I think we got there.

16 It was difficult. It was politically difficult, I think, for everyone
17 involved in the northwest because the WIPP plant had become that centerpiece,
18 that sort of monument to cleaning up the site, and the public was reluctant to
19 let it go. So that was difficult.

20 But I think the other thing that we learned was to build some
21 flexibility in, to go into a critical path method, so that we weren't locked
22 back into coming back and to renegotiating these things, to give some DOE some
23 flexibility, but to also give the regulators and the public some certainty
24 that things were going to get done.

25 I think, most importantly, as we experienced throughout the negotiations
26 themselves, bringing the public, the stakeholders, and the tribes into
27 discussions with EPA, the State, and DOE during the negotiations rather than
28 at the end of the negotiations saying, "Well, what do you think of what we
29 came up with?," it paid a tremendous dividend. I think we have learned over
30 the last few years that the successful implementation of this is to make sure
31 that from the very earliest point when we start planning for an activity out
32 there that we involve the public and the tribes; that we reach a common set of
33 expectations as to what's going to be done, and if there's a problem, it gets

1 laid on the table quickly. Those are the basic ingredients for trust in terms
2 of cleaning these sites up and some accountability in terms of getting the job
3 done.

4 MR. GRUMBLY: I think we need to drag those lessons out onto the
5 national stage.

6 CO-CHAIR COSTLE: Tad?

7 MR. McCALL: Thank you, Doug.

8 I really think you can get a national solution, but it's going to have
9 to end with a site for the agreements. I think if you take Jerry's idea about
10 a summit and you bring the States and the public stakeholders and bring the
11 Office of Management and Budget to the table and we get an idea of some sort
12 of long-term commitment from the administration as to what can be done for the
13 nation, so people have an idea what the total pie is, and you get agreement
14 among the different interested parties that there is going to be some
15 certainty. I hate to use this word, but let me borrow it.

16 MR. GRUMBLY: "Trust fund" is best.

17 MR. McCALL: Trust fund.

18 There will be some assurance of funding and commitment to work over
19 time. You take that template then to the specific site, and you negotiate it.

20 MR. GRUMBLY: It's the trust fund that's a problem. When you say trust
21 fund, do you mean credibility fund or money?

22 MR. McCALL: Credibility fund, of course.

23 MR. GRUMBLY: Anything that avoids the budget caps.

24 MR. McCALL: Right. We're going to have an anti-deficiency problem.

25 But I think that the White House can commit to saying we're going to do
26 something over 30 years and we're going to make good faith efforts to have the
27 money there to do that, not a legal commitment to get it, but a good faith
28 effort, and we will talk to you as budget exigencies might develop. I really
29 think you can tie a summit.

30 What you've got to do to get rid of this suspicions is you've got to get
31 everybody together in a room where they feel there's some fairness out of the
32 outcome, and the sacrifice, what sacrifice has to be will be shared mutually.
33 Then they can go back with the certainty that they're not getting a raw deal.

1 They're getting a fair deal when they negotiate, and I think you can get it
2 done.

3 I think the final thing is the one word, the "hot button" word in the
4 regulatory community and the public, is "renegotiation." I think we ought to
5 really be careful when we use that word.

6 I'm talking to DOD about the same issues right now, and I'm talking to
7 them about enhancing the public protection because, if you're drawing
8 agreements based on better ability to perform and better awareness of what
9 those risks are, what you're really doing is you're protecting that
10 community.

11 Now, to get to that protection, you're going to get a new charter to do
12 it, but in the regulatory community and in the public, there's a tremendous
13 fear when you come in and you say "renegotiation" because it looks like this
14 agreement may not be very good, but it's the only thing we've got that
15 protects us, and it says throw out the protection.

16 So that would be the final thing I would say. Don't say it's
17 renegotiation. Say we're going to give you a commitment to public protection
18 over time. I think it can be done. I think Jerry is a prophet.

19 MR. GRUMBLY: I think that's right. Given where our state of affairs
20 has been, I sort of feel like if it walks like a duck and it quacks like a
21 duck, it's probably a duck.

22 I'd be interested in hearing other people's views, probably not here,
23 but maybe over dinner about whether this term "renegotiation" really makes a
24 difference. I want to be honest with people, I guess, is basically where I'm
25 coming from. I don't want to fool them about what we're having to do.

26 MR. McCALL: I don't think you're being dishonest. Semantics are darn
27 important, and there's a difference in being dishonest and using the words.

28 MR. GRUMBLY: I hear you.

29 MR. McCALL: Your testimony in front of Congress has given me a lot of
30 confidence and a lot of people that have listened to you the same confidence
31 because you said right off the bat these agreements are sacrosanct; that they
32 had the full faith and credit of the US Government. But times have changed.
33 Technologies haven't developed. In certain cases, we may need to readjust.

1 I'm just saying that is a way to approach the problem which doesn't create
2 fear, but if you come in and you say these agreements were negotiated by a
3 previous administration, by a bunch of nerds --

4 MR. GRUMBLY: I hear you. I hear you.

5 MR. McCALL: Okay.

6 MR. GRUMBLY: And they weren't all a bunch of nerds.

7 CO-CHAIR COSTLE: If we have no further comments on --

8 MR. GRUMBLY: Let me just say that, in the interest of complete honesty,
9 I need to tell you that I have a paper before the Secretary right now that
10 requests the authority to go ahead and hold a summit this spring.

11 MR. CHRISTEAN: And you're wondering how I read that.

12 MR. GRUMBLY: But the thing is that I don't know exactly what the terms
13 of the deal are or what we're going to do. There are a bunch of options that
14 we have available.

15 Again, I want to be square with you guys, and squareness requires me to
16 tell you that I've got something like that sitting on the table at the moment.

17 MR. CHRISTEAN: That's great.

18 CO-CHAIR COSTLE: Ellen, thank you.

19 MR. GRUMBLY: I'm saying that I was debating whether it was better for
20 me to tell you exactly everything that I knew or better to reserve Hazel's
21 prerogative and decision, and the fact is as long as everybody understands it,
22 maybe it will be six months rather than three, and maybe it will look a little
23 different than what Jerry indicated. We'll all sort of know that we're
24 thinking about trying to do something that would bring us all around the table
25 at a high enough political level that we'll begin to be able to discuss these
26 problems.

27 MR. CONNOR: Jerry, would you accept Socks, the White House cat, instead
28 of the President?

29 MR. CHRISTEAN: In lieu of the factory cart.

30 MR. GRUMBLY: Socks gets 200 letters a day and has a staff to answer
31 them.

32 CO-CHAIR COSTLE: We have a presentation scheduled now from Jill and
33 then from Pat Whitfield.

1 Jill, we can start with you.

2 MR. GRUMBLY: Before Jill gets started, I'm going to have to leave at
3 3:00, and then I'll be back for the cocktail hour and dinner this evening.

4 MS. LYTLE: Throughout this morning about the choice of topics for the
5 meeting, I was sitting and thinking about that. Why the Federal Facility
6 Compliance Act? I admit that I had recommended that this be my topic because
7 I was asked to select one.

8 MR. GRUMBLY: I assume everybody knows Jill Lytle. Jill Lytle is Deputy
9 Assistant Secretary for Waste Management.

10 MS. LYTLE: I talked with John on the compliance side as a topic because
11 frankly I really think it represents a microcosm of what's happening to the
12 waste management programs today. The reason I say that is that I feel at this
13 point in our program that we are really more in an experimental or
14 developmental phase of the program than we are in the operational program.
15 For a program that's been around this long, that's kind of a strange thing to
16 say, but, as I look back on this program and how people were doing it five
17 years ago, we thought that there was a clear path forward that we knew how we
18 were going to store, treat, and dispose of this waste; that all we had to do
19 was get the funds and just go out there and fill those facilities and operate
20 them, but somehow it hasn't worked out that way.

21 Look at what has happened in the recent past. We really aren't
22 operating very much. I think one of the reasons that this has happened is
23 that fundamentally we never established the foundation that we needed for this
24 program. We never get through that planning process to collectively decide
25 exactly what we wanted to do with our waste in the Nation. So I think we're
26 finding ourselves today in order to move ahead, we have to step back, and we
27 have to get our stakeholders together, and we have to think about these waste
28 management issues from the bottom up as the first principles and go back and
29 figure this whole things out, but figure it out in a different set than the
30 ones that were in the system in the past and deal with it in a different way,
31 really sort of reinventing waste management along with all the other things
32 that are being reinvented today. So I was very much identifying with the
33 comments this morning that we're really looking for some new processes and new

1 ways of trying to deal with this.

2 We all know very well that waste management is not just a technical
3 program. It's very much a political process as well as a technical process
4 that we're involved in here, and only when we manage to solve both sides of
5 the equation are we able to move ahead. That's how I came to the Federal
6 Facility Compliance Act as a topic because here is a case where we are trying
7 in a new and entirely different way to confront these waste management issues,
8 together with some very key stakeholders in order to come up with an answer
9 that we all can live with for the future for many, many years in the future,
10 on the treatment of mixed waste and frankly on some other issues because,
11 although that act deals only with the treatment of mixed waste, there are many
12 other issues that are coming into the discussion.

13 With your indulgence, what I would like to do today is tell you where we
14 are in the FFCA process, what are the issues that we are dealing with, and I
15 have put together just for a handout -- and I understand that if the staff
16 over there has that, they might hand it out. They did? Okay.

17 What that is, is a summary of the Federal Facility Compliance Act
18 provisions. I'm not going to go through the detail of that. That's just for
19 your reference if you wanted to look it over.

20 The last page of that handout is a list of issues. These are issues
21 that we're struggling with, we're working with the States on, and what I'd
22 like to do after I get a chance to talk a little bit about the background and
23 where we are today is to talk about those issues and to see which of those or
24 perhaps some others might be a good focus for the EMAC in its consideration of
25 this issue because we certainly very much want your input as we're going
26 through this new process.

27 Just a few minutes on background, I know many of you are quite familiar
28 with this Act. It was passed in October of 1992. Basically, the purpose of
29 the Act was for the Department of waive sovereign immunity. In that process,
30 it was a very painful process to get that Act passed, but, in the debate that
31 went on, there was a recognition that the Department had some serious problems
32 that had to be addressed, and one of them was the storage of land disposal
33 restricted waste. So there was an allowance in the law for a three-year delay

1 of this waiver, so that we could put together -- and that was the other part
2 of it -- we had to put together a set of treatment plans for all of our mixed
3 waste. It seemed like a very simple thing to do, very straightforward, but
4 I'll tell you, as we sat and thought about what this meant, putting together
5 treatment plans for all of our mixed waste by October of 1995, we realized
6 that this was going to change in a very fundamental way how our waste
7 management complex is configured.

8 The Act lays out a whole series of actions that we need to do, and very
9 logically, the first thing it called for was an inventory. So we set to doing
10 that task, and we completed the inventory, at least the first cut of that, in
11 April of 1993, and it certainly wasn't perfect. Those of you who have had an
12 opportunity to look at it know that we still have a ways to go on it, but it
13 gave us our first really comprehensive picture of all of the different waste
14 streams that we're dealing with here.

15 We're dealing with over 1,450 waste streams at 50 sites, 22 States. We
16 listed 100 facilities that were either planned or already constructed and 40
17 technologies that might be considered for the different types of waste. So,
18 if you look at this matrix we were looking at of all the possible permutations
19 that you could describe out of all of these different variables, there are
20 certainly a lot of different systems that we could define looking at what we
21 laid out in the inventory.

22 We realize that one of the most important parts of this whole thing was
23 how were we going to work together with the States to come up with the final
24 answer that we needed to come up with by October 1995, what kind of framework
25 were we going to use to work with the States, and the law really didn't lay
26 that out. The law laid out some of the aspects of it, but it didn't really
27 say what the process was going to be.

28 So we started out as bureaucrats often do, and I see Tad smiling over
29 there, with a "tops down" approach. We thought, okay, we'll have a national
30 plan, and we'll create this umbrella of national planning, and under that,
31 we'll do all these very specific site plans coming out of that. We were going
32 down that road and got pulled up real short in December of 1992 with a message
33 from the States that said, "No, no, you don't understand. That's not the way

1 the world works anymore, if it ever did, and that's not the way it's going to
2 work this time, and this has to be a bottoms-up process, a bottoms-up process,
3 and it has to be really run by the States."

4 We immediately saw the wisdom of this. Actually, to tell you the truth,
5 it's a wonderful thing to finally be beaten up badly enough to realize that
6 you don't have the answer. Actually, I think that's kind of a good state to
7 come to at some point because we realized that, hey, we didn't have the
8 answer. So we were ready for the concept of let's do this differently, let's
9 do it with a bottoms-up process.

10 The other thing that the States brought to this discussion that was
11 really somewhat surprising to us was a statement that the States wanted to
12 broker the equity issue. They wanted to take on the issue of how we might
13 devise a method to deal with a movement of waste, of some waste, perhaps, from
14 one State to another, from a generating State to a State that might treat it,
15 store it, or dispose of it.

16 Frankly, this was a real opportunity. We looked at it that way and
17 looking back on it really as an experiment. I come back to a phrase I used at
18 the beginning. We're in the middle of a real experiment here and one that's
19 giving us a chance to redesign our waste management program.

20 So we thought, "All right. How do we really do this?" As a practical
21 matter, how do you make something like this happen? So the first thing that
22 we came to was that we had to have an organization to facilitate these
23 discussions both among the States and between ourselves and the States, and
24 the Governors recommended to us that we use the National Governors'
25 Association. We agreed, and we have a cooperative agreement with the NGA, the
26 National Governors' Association, to do this.

27 We set up a task force inside the Government, so we could do some
28 thinking about this, involving our field organizations. So we have a policy
29 group that involves all of our different operations office and the folks that
30 need to help us do this thinking. So it isn't really a headquarters-run
31 operation. The field offices are very much involved in this.

32 We laid out a three-step process because we figured, well, this is just
33 going to be impossible if we have a process where there isn't any real

1 feedback or dialogue until we get to the end, and then we just kind of hand
2 over those treatment plans to the States and they give us an official answer.
3 That's probably the worst way to do it.

4 So we suggested a three-step process where we put together conceptual
5 plans first, and those would lay out a whole range of options. Then we would
6 go to draft plans, so that the idea was you would progress from conceptual in
7 October of this past year to draft plans by August of next year to final
8 plans, but these are final to be considered by the State, by February of 1995
9 which gives the States eight months to consider those plans, hopefully then
10 issue the orders, and if the orders all came down by October of 1995, we would
11 meet the deadline and then continue to be, in a way, under the protection of
12 the law.

13 We have met three times with the States. We met in December of '92.
14 July and September of this last year, we formed two committees. One is going
15 to deal with technical issues, and the other will deal with disposal. That
16 was another interesting aspect. The law only requires us to write plans for
17 the treatment of mixed waste and not for disposal, but it was clear to us when
18 the States brought us that message that they wanted to understand how disposal
19 was going to be deal with, and they wanted it to be part of the whole
20 discussion in the Federal Facility Compliance Act, and we said, "Right. That
21 is exactly the way we felt it needed to be." So we have these two groups now
22 struggling, and disposal is not an easy issue, struggling with how we are
23 going to deal with those issues in this process.

24 So where are we today? Well, we have the inventory. Like I said, it
25 was the first cut. We've been working hard on trying to improve it. There
26 was a lot of concern, particularly at the beginning that we didn't have good
27 characterization of a lot of our waste streams, and so how were we going to be
28 able realistically to make decisions on how we were going to treat waste
29 streams if we didn't know what was in the waste streams. So we've been
30 working with the States, and much of this has been at a local level between
31 the States and their local sites and going over exactly what we know about
32 those waste streams, and in many cases, we were able to explain better what
33 process we used to determine what was in the waste. We still have some areas

1 that need further work and some which will need to be physically
2 characterized, but that process, I think, is going fairly well, and we're
3 making some progress on that front.

4 The conceptual plans. All of our sites prepared their conceptual plans
5 and turned them into the States in October of this year, and these conceptual
6 plans, as I said, laid out a wide range from doing everything on site to
7 sending the waste off site -- not all of it. I mean, there were varying ways
8 that the sites went at it, but every site was asked to do an on-site option,
9 and there were people here in this room like Ben Smith who said early on,
10 "You've got to do an on-site option."

11 The original discussion, I think, was in fact in the context of the
12 PEIS, but the idea of doing an on-site option as a baseline, I mean, maybe it
13 doesn't make sense for some of the sites to actually end up doing everything
14 on site, treatment, storage, and disposal, but, if you don't do that baseline,
15 you don't know where you're starting from. You don't know what difference it
16 makes to a site to be able to send a waste stream to another site unless
17 you've got that baseline. So that was, I believe, a very fundamentally
18 important thing to do in this process.

19 What we need to do now, however, in the next steps is to then narrow
20 down the options, and so, between now and August, which I keep reminding
21 myself is only eight months, we have a lot of work to do because that's when
22 the controversial things really start to come to the fore.

23 How do you narrow down the options? Now, what we have said is we'd like
24 to have an option by August of '94. I know that might not be the way it works
25 out. Maybe we'll end up having two options or three options. I don't know
26 yet how that's all going to work, but I do know we need to start working that
27 process of getting the options narrowed down, and in order to do this, we need
28 to grapple with some of these issues.

29 Our next meeting with the States is going to be in February, and we have
30 had several meetings ahead of that to try to prepare ourselves to be
31 responsive to the issues that are going to be discussed, and we have four main
32 deliverables to present at that February meeting.

33 First will be an updated inventory. So we will go over where we are

1 with our knowledge of the waste streams.

2 Second, a list of DOE candidate waste streams for off-site shipment; in
3 other words, what we're going to try to do is to lay out some thoughts on what
4 kind of shipments would we suggest go off site.

5 Next, we are going to be presenting cost data on the sizing of
6 facilities, and the reason that this is important is that we've stated that
7 there are economies of scale in bringing together waste from different sites
8 for larger-scale facilities. We need to lay out that data. The States have
9 to have an opportunity to look at that because that's a very big lever in the
10 decision on whether you're going to bring waste together to do treatment in a
11 centralized or a regional way.

12 Lastly, what are the possible triggers? In other words, what kind of
13 criteria would make some kind of sense in deciding that you would ship a waste
14 stream off site for treatment? Again, I want to emphasize, we are bringing
15 this to the meeting as thought pieces. We are not dictating, but these are
16 ideas that we're going to be bringing to the next meeting that we're having
17 with the States.

18 So, as I said, we're truly engaged in an experiment here of trying to
19 bring together both the political and the technical parts of this, trying to
20 come up with something together with the States, not doing it on our own and
21 trying to then lay it out as a finished product for the regulatory function to
22 either reject or accept. So I feel that we do have a very positive process
23 going on here, but there are some darn difficult issues that have to be
24 addressed, which brings me to my list.

25 These aren't in a particular order. I will say from the beginning that
26 the wording may not be perfect. Some of these may have a couple of those
27 warts that Tom talked about. I had a couple of folks look at this after I had
28 come to the meeting today, and they said, "Oh, my God, why did you say it like
29 that?"

30 So, like the States have offered to deal with the equity issue, they
31 said, "You may remember they told you they were in charge of the equity issue.
32 It wasn't a matter of them offering." So, if you will, be indulgent about
33 some of the specific wording.

1 The first issue deals with the matter of commitments, and we've talked
2 about some of this already today, and that's the issue of how are we going to
3 approach this question of fitting these new commitments in with the
4 commitments we already have for building treatment facilities, disposal sites,
5 and all the other parts of the program that we have committed to and the
6 agreements that were already signed up to.

7 The treatment of mixed waste is another set of actions that we have to
8 take on top of that, and it's going to really come down to at what pace are we
9 going to try to approach the treatment of mixed waste in conjunction with all
10 the other things that we are trying to accomplish in the system. The reason I
11 made this point about the lack of comprehensive risk assessments is the timing
12 is becoming difficult, as always.

13 Tom talked about the risk assessment initiative that we're going to be
14 starting. That's obviously not going to be complete. We're needing in the
15 next eight months to put something together, an approach of some kind as a
16 first step in this. Even when we get to February of '95, we're not likely to
17 have very concrete things on the table as far as risks. So how are we going
18 to balance even at an individual site? I mean, even if you don't talk about
19 questions of cross-sites, but at a site, what pace would we go at mixed
20 low-level waste as opposed to, say, some of the other commitments that we have
21 at that specific site.

22 The second is the issue of equity. The States, frankly, have not done
23 very much on this issue yet. We've been, to be fair, concentrating on the
24 technical questions and the inventory and trying to improve the knowledge we
25 have of the waste and understand each other's programs.

26 We're struggling in that somehow by August we're going to be putting
27 together what amounts to a draft plan. We're starting to think about what
28 kind of criteria would we use if we had to make some choices at least for the
29 draft plan, but we have a long way to go with this, and it's very difficult to
30 deal with the equity issue, and some of the folks here, I think, were probably
31 in a much better position to help us understand just how that might work out.

32 The third one relates to the private sector, and we're very excited
33 about the possibility that the private sector could be a big player in

1 producing the facilities that we need to treat this waste. The question is if
2 we do use private facilities, how should they be counted in the equity issue,
3 how should we deal with the risks and the costs of the different things that
4 might go on that are not quite the same as if we are committing to do
5 something on our own site with our own contractor.

6 The fourth issue really is kind of the crux of the matter on
7 consolidation or regionalization of waste in order to get the economies of
8 scale that I alluded to before. As I said, we have to prove this, first of
9 all. We've asserted that there are economies of scale. Some of the States
10 have said, "Well, we'd like to see, first of all, what a mobile treatment unit
11 might cost if you were to bring that to a smaller site rather than taking the
12 waste from that small site and just assuming that the best thing to do is to
13 get that to a larger site." So we need to lay that out, and we need to
14 discuss it and see just how strong those arguments are.

15 The issue of the next item which deals with public participation is one
16 that we have really struggled with. As I said, this is a bottoms-up effort,
17 and so far we've concentrated our public interactions at the local level. So
18 each of our sites has been told they need to have a plan for interactions with
19 the local interest groups at that site, and the States have been working, I
20 believe, on the same basis that this is mainly a local issue and that we need
21 to have the participation at that level, but we've also heard concerns that
22 there needs to be some national effort to get other participation in. The
23 EMAC is one forum where we've come to talk about the Federal Facility
24 Compliance Act. The PEIS is another opportunity we've had to bring some of
25 these issues to a public forum, but we really need to work out what else is
26 appropriate and what should we do about further participation.

27 The sixth item is one that when we looked at the Act, we said, "Well,
28 okay, if it all works out right, it will be fine. What happens if it doesn't
29 work out right? What happens if the States or some of the States either
30 reject the plans that we submit at the end or modify it in ways that we don't
31 find acceptable?" There really isn't any dispute resolution process laid out
32 in the Act. So how are we going to proceed if we run into a roadblock along
33 the way?

1 The last item is one where we are really asking for some feedback.
2 We've tried to be very open as far as giving access to all the data that we
3 have in this process, but we'd like to know whether we have achieved that yet,
4 whether there are other things we need to do to improve our interaction with
5 the States. There are other groups that I think we need to deal with to a
6 greater extent. We have invited some of the Indian Nations to come to our
7 meetings on the Federal Facility Compliance Act, but that's a process that
8 probably needs some additional work, and we need to think about how they will
9 be involved, as we have talked today about the need to have the Indian nations
10 involved more in these different processes.

11 So, having laid out that list of possible issues, I'd like to ask you
12 for your feedback and thoughts about what are the areas that you think might
13 be most profitable for the EMAC to get involved in or other areas that you
14 feel I haven't mentioned that are very important for us to focus our attention
15 on now as we're trying to move this process forward?

16 CO-CHAIR COSTLE: First, Russell.

17 MR. JIM: I think you've already touched on some of the concerns, but I
18 see where the DOE is providing funds for the States for the development of
19 mixed-waste treatment plants. Then they will come under the regulatory
20 authority of the States.

21 You're not providing funds for affected tribes, and I hope you will take
22 this under consideration, and be reminded that, although the regulatory
23 authority may lay in States, it is also subject to treaty law.

24 That's all I have. Thank you.

25 CO-CHAIR COSTLE: Ben?

26 MR. SMITH: I just want to congratulate Jill on an excellent
27 presentation. When I hear her explain the tradeoffs in all of this, I can
28 tell that she has a keen perception of what the States have been telling her
29 through this process.

30 It's like the presentation we had this morning from Ellen. It's a very
31 fair representation of where these issues stand without prejudice of how the
32 issues will be resolved, and I just appreciate that.

33 MS. LYTTLE: Thank you. I appreciate your help in leading me to see it,

1 and I'm quite serious about that. I think this has definitely been an
2 educational experience, I think, both ways. Thank you.

3 CO-CHAIR COSTLE: Tom?

4 MR. WINSTON: All of the issues that you have mentioned are important
5 issues. One of the things you were asking or maybe were considering is which
6 of those areas would this Committee be best able to have input, and I would
7 just point out I've listed items 3, 4, and 5 as being very important.
8 Certainly, No. 4, given our role with the PEIS, trying to assure that there is
9 appropriate interaction, if you will, a lot of this gets into siting issues
10 and what's going to drive the process.

11 I think the States' positions have been that our preference and our very
12 strong preference and the fact of the point of saying that if there is not a
13 convincing argument, why materials can't be treated on site, we really don't
14 even want to consider off-site treatment, but I think there's a recognition
15 that there is going to have to be obviously some. I think that fits in fairly
16 clearly with some of the PEIS discussions that we had yesterday, and I think
17 at some point, it needs to be resolved as to how those two processes, FFCA and
18 PEIS, actually work together to get us to the end point that we want.

19 The third issue is something that I would look at a board of directors
20 as having a real good handle on from a police standpoint. It doesn't make
21 good sense to use commercial facilities in commercial capacity.

22 Certainly, the area of involvement of other stakeholders, I think the
23 States have been criticized many times for sort of going off into a side room
24 with DOE on this issue, and we're all grappling with the whole issue of how do
25 we resolve equity issues which are very, very tough. They're tough in a
26 vacuum. They're sometimes even tougher in a public arena, and, yet, we've got
27 an obligation to do that. This Committee actually could assist in that regard
28 because of its unique role of a variety of stakeholders.

29 MS. LYTLE: Thank you.

30 CO-CHAIR COSTLE: Tim?

31 MR. CONNOR: First of all, I think the approach is great. From reading
32 the Federal Facility Compliance Act and the power that it gave States, it
33 really begged for the States to solve the problem and to take the lead in

1 solving the problem. That's a dynamic that I'll be looking at to see if
2 that's going to work. It's great that the States have decided that they were
3 up to that challenge, and more power to you.

4 I guess the one question I have regarding public involvement is what
5 you've summarized in No. 5, the Act requiring States to consider public
6 comments, how should DOE consider public comments. I fully expect this will
7 heat up. It seems to me like we're talking like a prenuptial agreement at
8 theory.

9 The possibilities are I get the boat and I get the car or you get the
10 boat and you get the car or I get the boat and you get the car. In August,
11 we're going to have our preferences. See you then.

12 MS. LYTLE: Oh, I don't know if I like this analogy. I understand what
13 you're saying.

14 MR. CONNOR: There are some hard choices in there that --

15 MS. LYTLE: Right.

16 MR. CONNOR: -- that pose theoretically as options are fairly innocuous,
17 but, when you get right down to it, things start to heat up.

18 MS. LYTLE: Yes.

19 MR. CONNOR: It's certainly plausible that the publics of some State
20 will see things differently than the leadership in that state, largely because
21 of economic development considerations and so forth. So it really does become
22 an issue.

23 If it happens that a State prefers an option that the public resists in
24 that State and DOE going into this has simultaneously been working the public
25 on how much it values their involvement and input, basically, it can be
26 immobilized by a State that says, "Nah, nah, nah. I mean, we really want to
27 do this because it's good for the economy. The public be damned." I mean, I
28 think that could put you in a bind that way.

29 In some way, the question is posed there, and I hadn't thought about it
30 before, but I would certainly think that's one that I and others and perhaps
31 the Committee need to think more about along with you.

32 MS. LYTLE: Yes.

33 MR. CONNOR: It could be a tough one.

1 MS. LYTLE: Yes, I appreciate that. We've really been struggling with
2 that, and I know the States, as Tom said, have, too. So we appreciate your
3 input on it.

4 CO-CHAIR COSTLE: Jeff?

5 Mr. BRECKEL: The State of Washington is in sort of a unique situation.
6 It has allowed us to take a somewhat different prospective, I think, on this
7 process, since we don't have to have a site treatment plan, given that we're
8 exempt from the process because of the tri-party agreement. So our
9 perspective has been looking at sort of the national issues and the notion of
10 equity and how that might affect what we do at Hanford because we're clearly
11 not out of that set of the equations, so to speak.

12 I guess it goes back to a discussion we had here just yesterday and more
13 recently at lunch today. It's the relationship between this FFCA discussion
14 and the PEIS. I think the concerns on behalf of a number of parties that I've
15 heard expressed that the sequencing and the scope and the way this issue is
16 handled in the PEIS, it's going to be vitally important to the success of the
17 discussions of the FFCA.

18 I think there is concern out there that DOE being a draft or the PEIS
19 could, simply by the scheduling of its own activities, place an undue
20 influence or pressure on the discussions, the very delicate discussions that
21 may be going on between the States and DOE in the FFCA side of the line. So I
22 think that based on the discussions we've had, there needs to be some
23 reconciliation of these two processes to ensure that they can both move
24 smoothly to a conclusion and that we can drive the benefits that can be
25 afforded through a PEIS, at the same time drawing upon the strengths of the
26 States and DOE trying to come up with a workable solution.

27 MS. LYTLE: Well said. Thank you. I do very much appreciate that
28 because it's been a real struggle, but we need to keep the dialogue going and
29 bring it to a conclusion, if we can.

30 MR. BRECKEL: We're building trust, but I think the concern, again, is
31 there is still skepticism as to how DOE is approaching this, concerns over
32 this sort of top-down sort of approach and wondering even though DOE stepped
33 away from the national compliance plan that maybe that's now just cleverly

1 disguised in a PEIS.

2 CO-CHAIR COSTLE: Dick?

3 MR. BANGART: I would caution the Department of Energy to build in
4 lengthy delay times in resolution of the issue of equity.

5 I'll remind you that the National Governors' Association also said that
6 they would resolve siting issues relating to commercial low-level waste
7 disposal facilities. That was in 1980. It's now 1993, and there still aren't
8 any. Some States have essentially bowed out of the process. New
9 administrations in other states are actively fighting the process. In some
10 cases, Senators -- or a Senator is fighting the Governor on the location of a
11 facility.

12 So, while in theory and in principle I think the assignment of the
13 equity issue to the States is the right place for it to be located, in
14 practice, individual States can take actions that will result in lengthy,
15 lengthy delays on issues like this.

16 MS. LYTLE: I appreciate that. I'm painfully aware of the experience
17 with that, having also the responsibility for supporting the commercial
18 low-level waste program in our technical national low-level waste program.

19 Hopefully, we've learned something from that process that will help us
20 with this, but I hear you. I know it's tough. It certainly is more than
21 ambitious to think that we might be able to resolve all of this by the dates
22 that we've laid out, but we are going to give it a try. Maybe the end product
23 isn't going to be exactly what we at first envisioned. That, I think, is
24 something that we need to factor into our thinking; that we may not yet see
25 what the end product is yet. It may be somewhat different.

26 CO-CHAIR COSTLE: Ron?

27 MR. ROSS: Jill, I congratulate you on listening to the States in that,
28 and I know that they came across last year fairly strong on that, and the
29 activities that you've taken on since then have really been commendable on the
30 part of what we've seen. Not that all States are happy and not that all
31 parties are equally in the program, but I think that you've come vast strides
32 since we originally talked about this.

33 I know we're not supposed to take organizational positions, but, in this

1 one, we supported both the FFCA and the process in which you've embarked on.

2 I think that the one comment I have here follows up on something that
3 Jeff said, and that is both the PEIS and the FFCA have strengths in what
4 they're doing, and both of them have weaknesses in what they're doing. I
5 might suggest here that DOE consider at some point bringing those interests to
6 a point where those things can be put on the table and discussed how we might
7 be able to offset or support each other, as the case may be, and particularly
8 in the items 3 through 5.

9 MS. LYTLE: Yes.

10 MR. ROSS: The equity issue, I think, is something that initially has to
11 be tackled at the State level. I think that needs to be given a full chance
12 here, even though it didn't necessarily come to what we thought it would come
13 to in the Low-Level Waste Policy Act. I think here it has some opportunities,
14 particularly since those who are involved have a real stake in the answer of
15 this question.

16 I might caution you, too, though on the item 3 under private. The one
17 thing that's not represented at that table are States which may have private
18 facilities, but which do not have a DOE facility.

19 MS. LYTLE: Right.

20 MR. ROSS: In essence, I'm thinking of, say, Utah.

21 MS. LYTLE: Utah, right.

22 MR. ROSS: They need to be brought to the table, if you in fact embarked
23 on that.

24 MS. LYTLE: That's a good point.

25 MR. ROSS: So those are some thoughts that I have, and I think you've
26 made vast strides, and your people need to be congratulated to this point.
27 Keep up the good work.

28 MS. LYTLE: Thank you. I appreciate that.

29 CO-CHAIR COSTLE: Dennis?

30 MR. BECHTEL: Jill, an excellent presentation. I think it was a good
31 synthesis of significant issues.

32 I guess being from Nevada -- and I've stated this before -- issues 2 and
33 4 are dear to our hearts, and I'm glad to see that listed. We concur with

1 Dick. I think equity is something you have to deal with early on.

2 As an example, with Nevada and Yucca Mountain, I know there was
3 opportunities for slowing things down, if that's not considered early on. So
4 that's an issue I hope the group gets together and discusses more intimately
5 than we have in the past.

6 MS. LYTLE: Thanks.

7 CO-CHAIR COSTLE: Ben?

8 MR. SMITH: I have two things. One is to respond to Dick a little bit
9 on the low-level rad waste thing.

10 I wanted to announce to him that last week, the State of North Carolina
11 selected between two sites for their regional disposal site that will serve
12 eight States. They chose a site near the middle of the State of North
13 Carolina, a site that minimizes its controversy with the State of South
14 Carolina, and since they have worked this process, so that they've prepared
15 all the data to submit a license application for either of the two sides,
16 they'll meet the deadline for submitting a license application for the
17 Wake-Chatham site in North Carolina.

18 So, not to say there's nothing going on there, I think there is some
19 reason for optimism. The states are dealing with that problem. It has taken
20 longer than anyone thought it would, but it is being dealt with constructively
21 in the southeastern States. Let's put it that way.

22 On item 6, I just wanted to comment on that just a minute and make a
23 connection here with the General Agreement on Tariffs and Trade. It's a
24 stretch, it's a leap, I know, but those talks are due to end tomorrow, and
25 there has been significant progress in those talks in Geneva over the last two
26 or three weeks simply because there is a deadline. After tomorrow, a new
27 process goes into effect in GATT where people can throw in deal-breakers. The
28 participants have a real incentive to get together and make a deal by
29 tomorrow, and real progress is being made.

30 I think under item 6, the process that kicks in after the three-year
31 grace period is that all of this couldn't go into a regulatory mode, into the
32 courts for resolution. So there is a dispute resolution process that kicks in
33 after the three years. It's there.

1 Nobody really wants to deal with all of that in that way. We'd like to
2 use the three-year grace period to the maximum advantage, but I don't think we
3 need a dispute resolution process. It's there, and it's not one that anybody
4 wants to use. It's like GATT. We ought to use this three-year period -- or
5 two years that's left now -- to get the most we can out of it because nobody
6 wants to see what's going to happen at the end of that three-year period when
7 it goes into the regulatory mode.

8 CO-CHAIR COSTLE: Ken and then Ron.

9 MR. KORKIA: Jill, I'd like to first comment on No. 5 dealing with the
10 public comment. We talked about this a little bit yesterday during our PEIS
11 Subcommittee meeting and in terms of the skepticism that the public, the
12 environmental community has towards the FFCA process as being the overall
13 driver of coming up with siting decisions, and the concern, is there a public
14 participation policy. I mean, who is going to conduct that. Is it going to
15 be something that would be conducted individually by the States? Will there
16 be a co-activity of the States doing that process? So we find ourselves in an
17 interesting position of saying that we want to side with DOE on this and
18 looking at the PEIS process as being the deliverer of site-specific decisions
19 in terms of where we're going to site facilities.

20 So I would just like to reiterate that point that what we're looking for
21 from a public standpoint is a comprehensive plan that's going to show us a
22 map, that's going to have all the little arrows drawn and all the different
23 sites, so that we can comment on that whole selection, allowing it to be where
24 there is just going to be the site-specific plans, where you can come in on
25 your local State's plan.

26 We've thought about transportation issues where perhaps waste is going
27 to be generated or is currently stored in Ohio, perhaps. It's going to be
28 sent to Nevada, and we look at interstates as they're going across the
29 country. What about the States in between? Is it the obligation, then, of
30 those States that have a site-specific plan to solicit the input from the
31 citizens of other States near them? How will this national view be collected,
32 I mean, in terms of areas where that specific State isn't going to be covered
33 by a plan? So I strongly urge that there be some discussion between the

1 States and DOE to resolve this debate about is it going to be the FFCA which
2 is going to be driving it and then all the decisions made by the States or is
3 it going to be a Programmatic EIS decision. We really would like to have an
4 answer because I think what we're looking for is just a comprehensive plan.
5 We don't care who generates it as long as we can have input in it.

6 Just as a quick aside on No. 6 in terms of dispute resolution and what
7 happens if a State doesn't approve a plan -- recently, I'm sure you're aware
8 of the Sierra Club lawsuit in Colorado dealing with the residues, and the
9 State of Colorado hadn't improved the RCRA, the amendment to their RCRA plan
10 or to comply with the storage of the residues. So the Sierra Club, of course,
11 was in court saying what's going to be done in the State of Colorado was
12 wanting to become a co-plaintiff in the suite. So DOE argues, then, that the
13 State of Colorado should become a co-defendant in the suit because they were
14 the ones who hadn't approved the plan yet, and so there's a lot of interesting
15 things that happen.

16 MS. LYTLE: Good point.

17 CO-CHAIR COSTLE: Ron?

18 MR. KUCERA: I only bring up the issue of equity because Dick Bangart
19 did. I would just add a note of caution. If you want to embark on the equity
20 issue, you might want to consider the possibility that it may be a problem
21 that doesn't admit to any kind of clean solution, and, furthermore, that
22 environmental equity may be much more complex than simply looking at what you
23 have under your purview right here, which is equity with respect to the waste
24 from the weapons complex. There are many other facets to the issue of
25 environmental equity among the States.

26 I think the bottom line of my caution is to avoid the very difficult
27 problem that has posed such a difficult hurdle for the States in their various
28 attempts to meet the requirements of the Low-Level Radioactive Waste Policy
29 Act and its amendments. That is, simply do not put the chief executives of
30 States in the position where they may consider that what they would be doing
31 is tantamount to political suicide.

32 If you can structure this or reframe it in some other way, so that you
33 can move toward equity without doing that, chances are you'll have greater

1 success than what we see right now with the Low-Level Radioactive Waste
2 Amendments Act.

3 CO-CHAIR COSTLE: Glen?

4 MR. SJOBLUM: Yes. I just wanted to point out a technical point that
5 might be useful in putting this concern into perspective, as we've begun to
6 get the data on the mixed waste around the complex.

7 Some 99.5 percent of it, it turns out, is at the larger sites, and so
8 that offers just from a first order point of view a potential that the need to
9 ship a lot of waste around may not really be there, and I think that as people
10 gain more knowledge of the information that's being assembled now that some
11 of these concerns might be, if not removed entirely. I don't want to suggest
12 that that would happen, but I think that maybe there's an opportunity that the
13 comfort level might grow over time. I think that through the process that
14 Jill has outlined that that could be a potential outcome.

15 CO-CHAIR COSTLE: Glenn?

16 DR. PAULSON: In a weak moment a few months ago, I agreed to give a
17 speech on the low-level mixed-waste problem. So I read the inventory report
18 for the first time. I actually thought it was pretty good, although I
19 understand there have been some criticisms of it which Glen has promised to
20 get to me, which I'd like to see.

21 I also now hear in the back of my mind, if you'll pardon the expression,
22 a giant sucking sound in that I think I'm going to get drawn into the
23 technical aspects of this one. This has got some intriguing features in large
24 part to me because, as I recall the inventory, it didn't include an estimate
25 for the waste that will be created by environmental restoration activities.
26 That was the major gap.

27 I want to associate myself very much with what Ron Ross said about
28 looking to other States and, in particular, the private sector sites, your
29 point 3. I don't recall whether or not you said that, as one of your
30 deliverables for February or later, you had a technical assessment of the
31 potential universe of private sector sites that either now are able to handle
32 components of low-level mixed waste or might be able to with new permits or
33 are planned in the private sector. If you don't have that technical

1 assessment going on, I would look into that right away.

2 MS. LYTLE: That's a good idea. I don't think we're doing something
3 specific.

4 DR. PAULSON: The plan part would be the trickiest, but it's worth
5 trying to get a handle on that, if you can.

6 CO-CHAIR COSTLE: Pat?

7 MR. WHITFIELD: As a point of clarification, I object to the use of the
8 term "created" with regard to environmental waste. It's there. We're just
9 separating it from the environment. We've had a tough battle not being
10 labeled the world's largest generator.

11 DR. PAULSON: I accept that amendment, Pat.

12 MS. LYTLE: We're trying very hard to get the best estimate we can on
13 how much that will represent.

14 CO-CHAIR COSTLE: Jill, thank you.

15 MS. LYTLE: Thank you very much. I really appreciate it.

16 CO-CHAIR COSTLE: Pat, I'd like to hear a little bit about the cost
17 study.

18 MR. WHITFIELD: As one of the nerds from several past administrations
19 who's been trying very hard to learn to listen, I didn't come with a
20 presentation today. So I'm not going to use the overhead machine.

21 I'm a little bit jealous of some of my colleagues who are coming with
22 nice prepared presentations and colored slides, so they can focus your
23 attention on the points they're trying to make as opposed to trying to make
24 those points and hold your attention with my voice which is affected by a
25 sinus problem that is of some length now.

26 I do want to make a few points, and I'm going to be a little bit more
27 vocal than I would have been if you would have heard Randy Scott's
28 presentation on the cost study this morning.

29 CO-CHAIR COSTLE: Glen, why don't you bring everybody up to date on the
30 schedule adjustments.

31 MR. SJOBLUM: Yes. Because of the overruns on some of this morning's
32 issues, Randy Scott and Rich Guimond, who wanted to participate also, had
33 other commitments this afternoon. So, with that, the actual details of the

1 cost study were to have been presented by them, followed by Pat's.

2 Pat has come with a flexible presentation that he can give you enough of
3 the cost study, so that his follow-up on that would be in perspective.

4 CO-CHAIR COSTLE: I should point out that Randy and Rich are coming back
5 tomorrow.

6 MR. SJOBLUM: Right. They're going to come back, so you get the full
7 details.

8 CO-CHAIR COSTLE: So we will pick up the piece that we missed because
9 it's a fairly important piece.

10 MR. SJOBLUM: This is one, also, where we had sent the summary of that
11 out to the Committee a couple of weeks ago.

12 CO-CHAIR COSTLE: Excuse me, Pat.

13 MR. WHITFIELD: That's all right. That's a good point.

14 So what I'm going to do as I move down toward addressing the issues of
15 contract provisions that we're looking at -- and they're not done yet. I'm
16 only going to talk about some things we're looking at. -- you will see that
17 they come out of the deficiencies that were noted in the cost study, and I
18 will tell you a little bit about what those deficiencies are, but the real
19 details of that will be provided by Randy when he comes back tomorrow morning.

20 So, if there's a question with regard to that part of it, I'd rather
21 defer that to Randy. If there's a question about the contract provisions,
22 changes that we're leading to, I'll try to answer that, although this is in an
23 early stage of development.

24 If one looks back to where we've been over the past several years, let's
25 say the life of the EM organization, you've heard an awful lot of discussion
26 about cost estimates and our inability to make good cost estimates.

27 I have been a proponent for some time that our problem wasn't with our
28 ability to estimate cost, although there are some problems in that arena that
29 have been pointed out, our biggest problem was in our ability to estimate
30 scope because we were doing things under pressures that we felt, for whatever
31 reason, at a time and in a sequence that didn't lead to good cost definition.

32 For instance, most of our interagency agreements have been signed with
33 the States, and if we use the tri-party agreement in Washington State as an

1 example of one of those, we projected out 30 years without having a single
2 work plan approved.

3 So what this means is that we projected out milestones, and we put
4 fairly firm dates of expected accomplishment against those milestones for a
5 program that we hadn't yet done the planning for. The tri-party agreement, I
6 believe, called for us to develop six new work plans a year, originally. It
7 called for us to do something like drill 150 new wells a year without
8 understanding the driving force for what those wells were going to do for us,
9 what data were we going to get out of those wells, what was going to be the
10 scope of the work plans.

11 So we -- and we take full responsibility for this -- signed up to
12 agreements without having done the planning up front. We put the agreements
13 in place. The agreements all had some sort of modification arrangements, but
14 for reasons which I fully understand. There was a reluctance to employ those
15 modification arrangements as the work scope became better defined, and we knew
16 more about where we were going and what could actually be done.

17 Now, you compound that problem with the fact that we're dealing with
18 budgets at least two years and, in some cases, more than two years in advance
19 of when they start to be implemented. So now we not only haven't done enough
20 planning for where we are today, but we certainly haven't done enough planning
21 for where we're going to be in two years.

22 So we have recognized -- and the cost study will show you the effects of
23 that -- that one of our primary findings has been our up-front planning to
24 define the scope, so that we know what the job is we're about to undertake.

25 At a meeting I attended about a year and a half ago, a fellow from the
26 Corps of Engineers was giving a talk, and he talked about the fact that the
27 Corps of Engineers never costs a project until they have the scope defined.
28 This is true in the environmental restoration arena where the Corps does work.
29 They do not scope the remedy until the ROD is done and the design has been
30 completed.

31 Now, if you take that approach, you got a much better chance of staying
32 on track with regard to schedule and cost than you do if before you start the
33 investigative phase, you put together a schedule and a commitment and look at

1 the budget that is needed to support that.

2 So what we're going to find is we need to make some fundamental changes
3 in the system. Now, I listened with a lot of interest earlier today as the
4 concept of where we are with the various agreements was discussed, and I
5 believe that we do need to review those agreements in this context.

6 I believe -- and you've all heard the story -- most of you have heard
7 the story -- that our experience in Fernald a couple of years ago or nearly
8 two years ago now was a wonderful experience wherein we set about to review
9 the agreement, but we didn't sign up to anything until we understood what
10 scope went with that schedule and what scope went with those dollars that we
11 put on the table, and I offer that for the last nearly two years now. We've
12 been fairly successful in meeting those commitments because we had some
13 understanding of where we were going.

14 So we are going to have to make some changes. I believe the net effect
15 of this is going to cause us in our contracting arena to contract for smaller
16 pieces of work at a given point in time. For instance, if you've got a site
17 and you're about to write the work plan for investigation, you probably ought
18 to only deal with the work plan at that point in time, not the implementation
19 of the work plan. When the work plan is approved by the regulator, you can
20 deal with the implementation. When the work plan has been completed and a
21 feasibility study written and the ROD signed, you can contract for the design.
22 When you've got the design completed, you can contract for the remedy, and
23 you'll be in pretty good shape.

24 There are several problems that exist with this, as one could recognize,
25 because under CERCLA, the requirement is that you be in substantive
26 remediation 15 months after the signing of the ROD. What that has done to our
27 system is to cause us to back up, and at the point in time when the initial
28 screening report comes out of the first phases of investigation, we started
29 conceptual design. If the feasibility study isn't completed, we don't know
30 what all technologies might apply. So we had to do parallel conceptual
31 designs, and that has cost us a lot of money.

32 So, in discussing this among ourselves and with some other interested
33 parties, we've come to realize that maybe there are some needed changes out

1 there. I only bring this up to say we've been looking at the total process
2 and where we are today and how we can do better in the future, but my topic
3 is, of course, contracting. So we were severely criticized by the Dingell
4 Subcommittee a couple of weeks ago over the fact that we didn't have a really
5 good firm baseline in place when we let the contract to FERMCO at Fernald. So
6 they are interested in us doing much better planning up front.

7 We're looking at how we can do that kind of planning up front, but in
8 our system, it's very difficult. We did have a baseline in place at Fernald
9 when FERMCO came on board. There was a baseline that was developed around the
10 agreements. It was in pretty good shape in the area where the agreements
11 were, but there were some other parts of site operations not covered by the
12 agreements that weren't in the baseline, and, therefore, they were a problem
13 area for us.

14 As we look at how we're going to go about implementing new contracts in
15 the future, we're looking at what point in time should we have the planning
16 done versus when the contract gets let, and then we're looking at if we're
17 going to let a contract, what should be the provisions in that contract.

18 Well, one of the provisions we'd like to have in the contract are some
19 increased risk-sharing on the part of the contractor. Now, that means a
20 different approach to indemnification. We're looking into an approach more
21 nearly like Sierra 119(c) provisions than what we have in the accountability
22 rule at the moment in the Department, but we're looking at that, and that's
23 being done in the Office of General Counsel with the input from us.

24 If we're going to ask the contractor to take more risk, we have to give
25 him the capability to make more profit, we believe. So that would go hand in
26 hand. But, if we're going to ask him to take more risk and we're going to
27 give him a chance to make more profit, we need more accountability from him.
28 We need the contractor to sign up to a specific scope of work over a specific
29 period of time for a specific budget, and then we need to track his
30 performance against those things.

31 One of the failings in our system is we've not provided the Federal
32 staff at the various sites to do the monitoring of the contractor performance.
33 We can't tell at most sites on any given day where we are versus what we ask

1 the contractor to do.

2 Now, we can tell when a major issue comes up, a major deliverable hits
3 the schedule, and we know whether that deliverable comes over the fence or
4 not, but we can't tell a few days before whether that's going to occur or not,
5 and that's a problem for us. It's a problem for the public around us because
6 they don't understand why we don't know everything that's going on at our
7 various sites.

8 I think it would not be out of place for me to say and I'm sure Tom has
9 said he's got a commitment out of the
10 Office of Management and Budget for some significant numbers of new FTEs in
11 the field to help us with this side of the problem.

12 Probably, you never go anywhere to talk about DOE contracts without
13 people complaining about how lengthy the process is. I offer as another
14 example, the situation we have with the ERMAC at Hanford right now. I can't
15 remember when the RFP went out, it was so long ago. The proposals came in
16 last fall, and a selection was made in January, and there was a protest, and
17 we're still working on a resolution of that protest. So now we have a
18 contractor who was announced as the winner of the procurement process who has
19 been required under the procurement system to keep his key players available
20 for that contract, and, yet, they're not there working on that contract yet.
21 This is a tremendous cost to the contractor and to the system because
22 everybody knows that the contractors are going to eventually get their money
23 back from us. Right, Al? That's where they're going to get it. They have to
24 get it from us.

25 So we need to find a way to simplify the procurement process. I would
26 say at the moment under Tom's direction and guidance that essentially all the
27 provisions in a contract are being reviewed for whether or not in this
28 environment they make sense, whether or not in this environment they are there
29 to help the Department get a good deal for the taxpayers' money.

30 Some of these things, we're going to be able to implement. Some of
31 these things, we will not be able to implement because of the impacts across
32 the system. By that, I mean Federal procurement is conducted under Federal
33 acquisition regulations for which the Department doesn't have primary

1 responsibility except to comply with the terms and conditions in those things.
2 So there are many places this contract reform will lead into the Government.

3 The Secretary announced a contract reform study group sometime ago,
4 right after she got in place, I believe, and Tom's position on that as of very
5 recently was that they've not made enough progress at this point in time; that
6 he wants to wait and make these changes in our contracts while from their
7 study. He wants us to go ahead and parallel with that activity and identify
8 changes that we can make.

9 Now, I've talked about several things that we're looking at, and I've
10 talked about them in a context of new contracts, but I will tell you that out
11 of this will come provisions that we will view as beneficial, and we will go
12 to existing contracts and ask to negotiate those provisions into the terms of
13 the contract.

14 The point I'm trying to make here is that there is a lot of room for
15 improvement in our performance from both a cost and a schedule standpoint, and
16 some of it is related to our method of contracting and the performance that we
17 get as a result of that method of contracting, and we want to improve all of
18 that.

19 I believe that with the emphasis Tom has put on this particular
20 initiative, he would like very much for this group to look at those provisions
21 as they come down and the potential impacts of those provisions as they come
22 down, and help him decide which ones were such that we ought to go to the wall
23 for it, which ones are going to be so long in coming that we ought to push
24 them, but not wait on them for implementing others, and which ones have the
25 potential of returning significant benefit almost immediately, and, therefore,
26 we ought to get those on the street and get them started working.

27 Let me review what I think these things are, a better definition up
28 front which may lead to smaller project elements. Better requirements up
29 front -- and this will get to something that Randy Scott may have talked about
30 this morning in his safety talk, but maybe he didn't. That's the requirements
31 identification documents that we're trying to put in place at every site, so
32 that you know when you start an action what DOE orders apply, to what degree
33 they apply, how that will be accepted by the Defense Nuclear Facility Safety

1 Board, and where you're going.

2 The reason I bring that kind of issue up is one can look in the DOE
3 order general construction requirements, 6430.1, and you can find all kinds of
4 requirements for seismic stability, tornado resistance, those kinds of things.
5 Yet, on some of our sites, we're trying to build aluminum-sided storage
6 buildings to keep solid waste, which is stored in a metal container, out of
7 the weather.

8 Well, you're talking about tens of thousands of dollars if you build it
9 using commercial construction techniques, and if you use DOE general
10 construction requirements, which require these other kinds of things, it may
11 cost you half-a-million dollars. So what we need to do is take this graded
12 approach to these kinds of requirements and get them built in up front and get
13 them out, so that when a contractor signs a contract for one of our sites, he
14 understands the degree to which the Department of Energy orders apply under
15 his contract to the activities he's going to conduct, and he doesn't always
16 bring the first cost estimate over based on a nuclear reactor set of
17 standards, no matter what the building might be. So that's a simplification
18 that we believe we owe to the contractors and to ourselves and the public to
19 reduce cost.

20 I've mentioned more control and accountability and especially over
21 project management. Some of the things that we are going to be trying, we've
22 already got an agreement to work a trial basis at K-25 at Oak Ridge around a
23 project team, and here what's going to happen is for a new activity, a project
24 team is going to be named, and it may be headed by a Martin Marietta person.
25 It may be headed by an M.K. Ferguson person who is the construction management
26 firm at Oak Ridge. It may be headed -- but I doubt it -- by a Federal
27 employee, but there will be a Federal employee assigned to that team. There
28 will be an assignment for safety. There will be an assignment for
29 environmental compliance, and you won't have the Department of Energy, Martin
30 Marietta, and M.K. Ferguson all standing there in the area of safety,
31 environmental compliance, and project requirements, looking over the shoulder
32 of the one or two or three people who are doing the work.

33 Clearly, we need to change our approach to project management, and this

1 is one of the things we're going to look at, and this is one of the things
2 we'll be trying to restructure contracts to help us with.

3 I mentioned the shared risk-taking, and I want to elaborate on that just
4 for a moment. The idea is we would like for a contractor to sign up, and
5 whatever the requirement is in terms of scope, dollars, and schedule, if he
6 exactly met that, he got kind of an average fee or maybe a fairly low fee
7 because that's what you expected him to do, but if he could reduce the scope
8 without impacting the final outcome, if he could reduce the cost without
9 impacting the final outcome, or if he could beat the schedule, he could earn
10 some more money, but if he went over on any one of those things, the fee goes
11 way down. It goes way down in a hurry. So what we're trying to do is we're
12 trying to share savings, but we're trying to build incentive to be concerned
13 about cost and schedule and scope.

14 In reality, unless the procurement system gets simplified, we're still
15 going to be bound by that, and I would offer as a statement of fact that the
16 program has been impacted at the Rocky Flats site significantly by the
17 inability of the contractor and the contractor's staff coupled with the Rocky
18 Flats' staff to apply the DOE procurement system requirements. So we're
19 looking for ways to make the system less onerous, so it doesn't take up so
20 much of our time, so it doesn't take so long from end to end that the
21 requirements change while you're going through the process.

22 I wish that we had these proposals here for you now. We do not have
23 them now. We're expecting them in the near future, and I would expect fully
24 that Tom would expect all of you to look at those and help us decide which
25 ones made sense and which ones offered the most potential for improvement.

26 With that, I'll stop and I'll be glad to answer what questions I can
27 about what we're planning.

28 CO-CHAIR COSTLE: Ken?

29 MR. AYERS: Pat, two questions. First, if you go to an indemnity
30 agreement or such, away from your cost that you have now, to more of a Sierra
31 119, would you guys be bound by the EPA guidelines on that, on the
32 implementation, or is that a question you haven't figured out yet?

33 MR. WHITFIELD: Well, of course, that's at the heart of the issue. When

1 EPA issued the first draft requirements under 119(c), I believe, about three
2 years ago or something like that, we looked at those. We were under a lot of
3 pressure from the Hill at that point in time to hold our contractors more
4 accountable. We decided that we didn't believe 119(c) provided adequate
5 indemnification for our site. So what we did was we sent a statement of no
6 comment to those 119(c) requirements, reserved the right to either adopt those
7 or develop our own.

8 In the final analysis, we developed something that we call the
9 accountability rule for M&O's, and, essentially, what that does is it takes
10 away any indemnification for gross negligence, by it limits contractor
11 liability for most other things to a six-month period of award fee, and that's
12 not viewed on the Hill as enough risk for the contractor to bear. So we're
13 looking at how do we go toward 119(c) which has a cap on how much the
14 Department will indemnify the contractor for, and he has to provide insurance
15 for the rest of that.

16 I heard some rumors the other day that the insurance industry was
17 starting to belly up to the table on this issue and maybe might start making
18 some of this available, but most of it just wasn't available. Of course, the
19 situation we found ourselves in is EPA was getting their work done and the
20 Department of Defense was getting their work done, and they weren't offering
21 this same kind of accountability limits. So that's the bind we're in, and we
22 would move in that direction. Exactly how far we'd go, I don't know the
23 answer to that.

24 MR. AYERS: The second question is it sounds like what you're looking at
25 is you tried to take smaller increments, moving more toward fixed-price
26 contracts again, away from reimbursement contracts?

27 MR. WHITFIELD: Actually, the more we can move away from reimbursement
28 contracts, the better off we're going to be because they're viewed as the
29 black hole by the Congress. They very much are interested in our moving
30 toward fixed price.

31 When we put the environmental restoration management contract or concept
32 on the table, the idea there was to have a cost plus for the contractor who's
33 managing the work, but for that contractor to do as much actual work on the

1 ground as he could through fixed prices. We're trying to move even more
2 toward fixed prices, and if you're moving toward fixed-price contracting, you
3 simply have to shorten the time frame because you can't predict the work over
4 larger time frames and more scope.

5 MR. AYERS: Having spent a lot of years getting cost reimbursement
6 contracts to be used, it's just scary because of the scoping problems --

7 MR. WHITFIELD: Right.

8 MR. AYERS: -- that you run into when you try to do a fixed-price
9 contract.

10 MR. WHITFIELD: Randy is going to show you some interesting statistics
11 tomorrow about how we've used these two, and we've used them in the wrong
12 place, almost 180 degrees out in our own experience.

13 CO-CHAIR COSTLE: Bill?

14 DR. FREUDENBURG: Jim Werner -- I don't know if he's here -- was to talk
15 about option 4, but let me see if I can throw out something that would be
16 completely different from what you are talking about here.

17 There's a whole lot of experience and there have been studies in the
18 private sector, I have characterized before, as the rule of 20's which is
19 usually each time you double your production overall nationally, you reduce
20 the price by about 20 percent. The major reason seems to be experimentation;
21 that one company competing with another figures out how to shave 3 percent
22 here, 5 percent there, et cetera.

23 One of the striking things about DOE is instead of having that kind of a
24 cost curve, we seem to have this kind of a cost curve always, and that's not
25 just your program, but it's in fact maybe endemic to Government.

26 What I hear you talking about as a way to deal with escalating costs is
27 the effort to specify ever more tightly just exactly what will be done. If
28 only we knew exactly what could be done, we could figure out that you're going
29 to use this size of a shovel and we'll give you 3 cents for each time you put
30 the shovel in the ground and 2.5 for each time you toss it over your shoulder,
31 and maybe we'd cut it to 2.4, but it may be that shovels are the wrong way to
32 go.

33 I don't see anything in the processes you're talking about that would in

1 any way encourage experimentation. My worst nightmare would be five years
2 from now we'd look back, and instead of having this much paper on exactly how
3 you're supposed to clean up a site that maybe only has this much crud in it,
4 there would be this much paper on cleaning up that same amount of crud.

5 Whereas, the Department of Energy, unlike most private Superfund firms
6 has a real incentive to encourage experimentation, and it's got some
7 flexibility for doing that. I mean, there are a whole bunch of contaminated
8 sites, many of which are so dangerous, you've just got to get right on them,
9 but some of which are less dangerous or less immediate.

10 Maybe what ought to be done in the interest of cost containment isn't
11 just the tightening down the clamps, where you know how to tighten down the
12 clamps, which is a real trick, but on some of the sites, encouraging something
13 like peer-reviewed experimentation, engineering firms that are willing to try
14 different orientations, where the Committee would be deciding on the proposals
15 would have to have someone who knows something about worker safety and health,
16 have to have somebody else who understands about groundwater, et cetera, but
17 provided that Committee of experts could be convinced that, if this is
18 something that is at least worth giving a try to, you'd give it a try. Then,
19 five years from now, instead of having that same one technology with that same
20 shovel being used over and over again, you might have your choice from 25
21 different technologies.

22 You might have tried out 300 and found that most of them really are
23 worse than what you're doing. Your suspicions were sensible, but, almost
24 always, you'll find out that one or two of those hairbrained schemes will work
25 a whole lot better than something that is now taken for granted, and I don't
26 see any room for that kind of experimentation, and that, to me, looks like it
27 would be the best way to control cost in the long run.

28 MR. WHITFIELD: I agree with almost everything you've said. The one
29 thing I don't agree with is that that kind of concept isn't built in here, and
30 that's my own fault because I've been so brief in my language.

31 One of the things we would try to do on a fixed-price contract would be
32 to write a definition of the final state, and then we'd put that out and
33 expect a lot of competition with regard to how you achieve final state, and

1 that would provide a lot of room for variations in technology, variations in
2 staffing approaches. All kinds of variations could be brought to the table,
3 and you'd be competing across the whole of the environmental restoration
4 industry in this country, I believe, if we could ever get our contracting
5 system simplified, our procurement system simplified.

6 I believe that our procurement system keeps some people from coming to
7 the plate because they just don't want to deal with it, but the idea would be
8 that in the specificity, it would be the outcome we want, not how to get
9 there. So that would leave a lot of room for various approaches.

10 I personally believe that the pressures of the schedule under the
11 agreements has foreclosed a lot of evaluation of new technologies that could
12 have been applied to this program, and as a result of that, I put out a policy
13 statement, I believe, in the early part of the summer that said that every
14 time we start to write a new environmental document, a remedial investigation
15 and feasibility study, we have to include some innovative technologies, and we
16 have to carry those all the way to the end.

17 You don't have to carry all of them, but you've got to carry the
18 innovative technologies to the end because we've got to have some kind of
19 forcing function to get people to say, "The schedule is not the most important
20 thing, and, therefore, I have a little room to do this," because you're
21 absolutely right. Right now there's no incentive for anyone, our people in
22 the field or the contractors in the field, to bring something to the table
23 that may or may not work, except in the contract at Fernald if they were to
24 beat the schedules through the use of an innovative technology, they would
25 share in the savings, but that's been a difficult process for us.

26 DR. FREUDENBURG: Could I have a follow-up on that?

27 CO-CHAIR COSTLE: Sure.

28 DR. FREUDENBURG: Given my own experience, getting reimbursed for
29 something as simply as a trip, I very much believe everything you're saying
30 about how cumbersome the process is, and what you're saying here, I think, is
31 a major step in the right direction, but I'm also suggesting something
32 different from that which is not just in cases where you want to specify we
33 want this much crud reduced to this much crud and give us the cheapest way of

1 doing that.

2 In addition to that, I believe you might find a number of the
3 stakeholders would be quite flexible if you could work with them on
4 identifying specific spots within INEL or Hanford or even Fernald, possibly,
5 where they would say, "Okay. Over here, we're willing to let you try some
6 experiments," and for that particular chunk, instead of saying, "We want this
7 kind of thing. How cheap can you do it within this time frame? But guarantee
8 you'll get it done," which, again, doesn't give the contractors much of an
9 incentive to experiment, you say, "For this site, give us your most creative
10 ideas for what ought to be tried that might turn into something that would
11 become a commercial technology in the future, and that would be a second and
12 really quite different orientation toward encouraging experimentation.

13 I would like to work with you on that, and maybe other people would,
14 too, if there is interest in the Department in trying to develop something
15 more creative.

16 MR. WHITFIELD: To answer that question, in mid-October at Savannah
17 River, there was a meeting held, and I wish I could think of the name that
18 went with the meeting, but I can't -- something like Vendors Forum -- where
19 any vendor that does this kind of work in the country was invited to the site.
20 They got briefings on some of the environmental restoration problems on the
21 site. They were taken out on the site for tour, and they were asked to
22 propose any solution that they thought might work for any spot on the site,
23 and they were to propose both cost and schedule that went with that, and I
24 believe we got 1,100 proposals which are currently being evaluated now.

25 So you're right. There are other ways to do this work.

26 DR. FREUDENBURG: So there may be the potential supply.

27 MR. WHITFIELD: Right.

28 CO-CHAIR COSTLE: Glenn?

29 DR. PAULSON: I want to go back to one of your earliest points, Pat,
30 about better definitions and better requirements up front and how that might
31 lead to smaller individual contracts.

32 I must say, my own experience which tended to be more turnkey operations
33 has been very negative with fixed price and much more positive with cost plus

1 fee and tight management, but those were typically longer-term projects.

2 Now, I recall that there was an evaluation of the EPA-funded activities
3 that showed one of the reasons for delays and high costs there was the handoff
4 from stage to stage. If you're going to take ER projects and divide them up
5 into smaller bites, how are you going to deal with the handoff problem? If
6 you have handoffs to different contractors or lags between the stages, you
7 might eliminate the savings that you might otherwise get by the better
8 definitions and better requirements up front at each stage.

9 MR. WHITFIELD: Well, that's absolutely true, and you're always dealing
10 with those kinds of tradeoffs between what system works better than the other.

11 Obviously, if you're going to not do turnkey, you got to have someone
12 doing a terrific job of integration across the life of the project.

13 DR. PAULSON: Exactly.

14 MR. WHITFIELD: The original concept of the environmental restoration
15 management contractor was that that contractor would do that integration
16 across the scope, but the Department would do a better job of managing than we
17 have in fact done.

18 If it's not done by someone like an environmental restoration management
19 contractor, then it does require significant more Federal people to be on top
20 of what's happening, why it's happening, where we are, and how to make the
21 next move because you're absolutely right, if you hand a feasibility study to
22 a contractor and ask him to provide a design, the first thing he's going to
23 want to do is to redo the feasibility study --

24 DR. PAULSON: Exactly.

25 MR. WHITFIELD: -- so he'll be sure his design will work, and there has
26 to be an integration that precludes that kind of "redo" at every step, whether
27 it's Federal or contractor. It has to be done.

28 CO-CHAIR COSTLE: Thank you, Pat. This is one of those issues that is
29 going to be continually on our table, I suspect, and so this is not the only
30 crack we'll get at Pat, but thank you, Pat, for getting us off on that start,
31 and we'll hear tomorrow a little bit more about the study that was done, and
32 we will be revisiting this.

33 I propose a 10-minute recess at which time we'll come back for an update

1 from Glen on the PEIS, and then we have a public session scheduled this
2 afternoon in which we have six people who asked for an opportunity to address
3 us.

4 [Recess.]

5 CO-CHAIR COSTLE: Glen, before you start, let me make just a couple of
6 announcements I've been asked to make. One is that the Land Use Committee has
7 called for a 7 a.m. meeting over breakfast in the hotel. Also, the Community
8 Health and Worker Safety Committee would like to meet for five minutes at the
9 first break tomorrow morning.

10 Glen, could you take us through a fairly quick update on the PEIS
11 status?

12 MR. SJOBLUM: I only have two slides, and I would just like to give you
13 an update of where the activities of the Programmatic Environmental Impact
14 Statement are.

15 The first bullet there just identifies the implementation plan which has
16 been now submitted by Tom Grumbly to the office that Tara O'Toole has, the
17 Assistant Secretary for Environment Safety and Health. It is DOE's practice
18 and requirement that this document be reviewed prior to release and approved
19 by her office.

20 We have been coordinating closely with them throughout the development
21 of it, and they did in fact comment on a May draft that the Committee had
22 reviewed, and so now it's in the final process of being reviewed over there.
23 As we covered in the Subcommittee meeting yesterday, they don't anticipate any
24 serious problems.

25 There is that one issue that relates to the defense program's
26 reconfiguration PEIS and the environmental management PEIS and how those two
27 are related or should they be combined. That's an issue they asked for public
28 comment on, and there were some comments suggesting that we reconsider that
29 issue, and that is one of a number of issues that will be addressed formally
30 by the Department in the revised implementation plan for the reconfiguration
31 PEIS.

32 Currently, neither of the two staffs preparing it feels there is an
33 advantage to combining the two documents. They're already complicated enough.

1 While they compliment each other, they also are trying to approach different
2 decisions, and so we believe that that will be the right approach.

3 Now, we described with you when we were in Idaho Falls and in fact held
4 a brief public meeting immediately following the completion of the advisory
5 committee meeting. We did not have a lot of public there, but that triggered
6 a series of five sort of public meetings on some of the analytical efforts
7 that are ongoing relative to the Programmatic EIS.

8 We did get some feedback there on risk communication, don't use
9 exponents, and things like that. There also was some healthy concern about
10 how much credence to put into risk and make sure you cover uncertainties and
11 things like that. So that's useful input.

12 We have completed those now. The last one was at Hanford, I believe, on
13 the 30th of the month. So that is a series of useful data points for us.

14 Also, we held the national workshop on the models that are being used,
15 and because of the questions that have been raised about those models and how
16 well-suited they are scientifically and so forth, we had a peer review process
17 that was developed by Oak Ridge wherein they had, I believe it was, about 10
18 independent reviewers who have never worked for DOE facilities, do a peer
19 review of various elements, and they did find some problems, and they did make
20 some comments, concerns that we should take into account.

21 For example, in the area of nonaqueous-phased liquids, they concluded
22 that these models and in fact no models yet developed really adequately deal
23 with this particular environmental cleanup problem in terms of being able to
24 predict what the ultimate impact might be. So we have to deal with that
25 somehow, and I'm anxiously awaiting Curtis Travis to tell me what his proposal
26 is in that area.

27 In addition, we had some ideas that in this workshop on some of the more
28 risk communication areas, the people who attended this workshop, there were a
29 total of about 150, and they were from environmental groups around the country
30 as well as the States, some tribal representatives, and EPA -- I believe there
31 were some other Federal agencies there as well, and also some of the other
32 national laboratory modeling people. So we got a good deal of input there.

33 Our hope is that the report of that workshop will be sent out in draft

1 form to all the participants. They can comment on the draft report of that
2 workshop, and then that will be incorporated by Oak Ridge and then submitted
3 by them to the Department along with recommendations to try to deal with some
4 of the concerns expressed.

5 The one particular idea that has come out of that which I thought very
6 useful in terms of public involvement was the notion that we hold another
7 meeting soon with that same group of people who are interested in perhaps late
8 January to try to get into more detail on how the data is being used, how the
9 PEIS would be used to support the range of potential decisions that might be
10 contemplated, and also to try to get ideas on how to portray risk, and this is
11 a very important thing where we need to listen to the public because they're
12 the ones who have to receive and try to do something with the information.

13 So we anticipate, though we don't have a date, that perhaps late January
14 we would want to hold a meeting perhaps with that same group to help us go
15 further into these areas.

16 You may recall we had committed to having some workshops prior to the
17 issuance of the draft EIS where we would share some of the analytical results
18 to just see what people think of that and to try to gain insights before we
19 issue even the draft. Given the significant size and complexity of this, it's
20 probably worth this kind of trial run, if you will, to see if we're 100 miles
21 or 10 miles off the mark before we issue the draft. So we hope that this
22 public group that we started with the modeling workshop can help us to plan
23 those, perhaps, six workshops in the April-May time frame.

24 The ongoing analysis is progressing both in the waste management area
25 and in environmental restoration. We're really into the data crunch time
26 where data from one part of the PEIS team is coming into other parts, and
27 there's just a tremendous amount of information flowing around now within the
28 team as we try to bring the analysis into focus and try to do the number
29 crunching.

30 Following that, META has the task of trying to actually boil down all
31 the analytical things into something that will be meaningful relative to the
32 alternatives that we've laid out in the implementation plan.

33 I believe I've covered the first bullet on this page. I believe that at

1 the Subcommittee meeting yesterday, there was a general agreement that we
2 should plan a PEIS Subcommittee meeting in the February time frame, and I've
3 just jotted down some possible topics that we can work up in more detail
4 perhaps to review some of the analysis results and to go into more detail
5 perhaps on how we should structure the public involvement processes that I've
6 just mentioned.

7 So I would be anticipating that we would have some Committee member
8 involvement in this January meeting, maybe one or two, and then follow up that
9 with a more detailed discussion about how we might do that in the February
10 meeting. Then, inasmuch as the full Committee meeting that would be logically
11 in March, we would also plan to continue this process into March and currently
12 targeting the receipt of draft PEIS from the contractor in April.

13 Now, I do want to tell you, I think that we have a very ambitious target
14 there, and I will be taking a snapshot of where we stand this Thursday with
15 the entire team, and, if necessary, we might have to adjust that slightly.

16 With that, I believe that is a summary of where we are today.

17 CO-CHAIR COSTLE: Would anybody like to put any questions to Glen at
18 this juncture?

19 MR. AYERS: Glen, just quickly, what's your schedule right now for
20 having the draft out for public comment?

21 MR. SJOBLUM: The schedule that we have been talking about for about six
22 months now would have us issue that in late May.

23 MR. AYERS: Were you anticipating allowing the entire Committee to
24 review the draft and provide comment prior to you issuing that?

25 MR. SJOBLUM: Absolutely. That certainly goes without saying.

26 We had anticipated a review in parallel by the Committee, by the DOE,
27 and as well by the Environmental Protection Agency. As you may be aware, our
28 agreement with EPA as a cooperating agency records that we would provide that
29 to them six weeks prior to the draft being finalized and for issue to the
30 public.

31 So we currently anticipate doing those reviews concurrently, and then in
32 that, it would be a very intense process, but it would be, I suspect, a fair
33 one in which we can get the benefit of everybody's input before we go out with

1 a public document.

2 CO-CHAIR COSTLE: Any other questions?

3 Ben?

4 MR. SMITH: Glen, help me a little bit here.

5 Glen's presentation was almost a full report of our PEIS Subcommittee
6 meeting yesterday and at lunch, but not quite a full report. I'm a little
7 confused as to where on the agenda you want to see the other items added,
8 whether we add them here or at some later time.

9 CO-CHAIR COSTLE: Correct me if I'm wrong. My sense of the meeting that
10 I interrupted, to get you all back in here, was that you weren't finished
11 talking yet. We have a section tomorrow after Tom and his staff would
12 conclude their presentations, where we would get back to Committee agenda and
13 business, if that's agreeable.

14 MR. SMITH: Okay. That will be fine.

15 I guess, then, the only thing I would bring up here is just one
16 amendment to what Glen has brought up about the work on the public
17 participation strategy, which I believe you showed in your chart in January of
18 the agreement of the Committee.

19 Is that the first bullet on your chart?

20 MR. SJOBLUM: What we have in this bullet here is a meeting with the
21 public to discuss the public information or public involvement process. We do
22 have the agreement from yesterday's meeting that we will share a revision of
23 the "Straw Man" document you've seen in prior drafts, incorporating the ideas
24 that we have gotten recently, including those from others.

25 I believe we have also incorporated comments that we did receive from
26 Vicky Dastillung and Jean Jacobus. If anyone else would like to offer
27 suggestions on that, we would be happy to do that.

28 MR. SMITH: Yes. That was my amendment. The charge to me from the
29 Committee was to offer an invitation to any member to participate in this
30 final review of the "straw man" and work with you in one meeting just
31 dedicated to finishing a public involvement strategy on the PEIS.

32 MR. SJOBLUM: Right. I had put that tentatively, just for your thought,
33 that that might be a good topic to conduct in a kind of round-robin of sorts,

1 but then to come back and try to tie the knot on that in an agenda item in the
2 February meeting before the next full Committee meeting, so that we don't wait
3 another three months before we nail that one down.

4 I think the benefit there would be that we might have had the input from
5 this public meeting in time for the Committee to consider that input in
6 helping finalize the public involvement plan at the February meeting. That's
7 just some initial thinking that I did to try to combine these things in a
8 logical progression.

9 If there are other suggestions, I think we should incorporate those.

10 CO-CHAIR COSTLE: There being no further comments, we have almost caught
11 up with ourselves. In fact, we actually did catch up with ourselves.

12 I would like now to proceed with the public comment session. We've had
13 several people ask for an opportunity to address the Committee. In order,
14 they are: Bob Deegan from the Sierra Club; Rocky Wilkinson, the Laborers
15 Employment Cooperative and Education Trust; Jim Kelly and Dennis Wise of the
16 United Steel Workers; David Treanor of the International Union of Operating
17 Engineers; and Larry Penberthy representing himself.

18 So, with that, may I call on Robert Deegan to come forward. Welcome.

19 MR. DEEGAN: Thank you, sir.

20 I have brought along on the topic that I'm going to speak on one
21 handout.

22 CO-CHAIR COSTLE: Sure.

23 MR. DEEGAN: If someone could help me to distribute those to the
24 Committee members, I do have copies of those.

25 Thank you for your courtesy to me. I just arrived about 20 minutes ago,
26 driving up from Virginia Beach. I very much appreciate the opportunity to
27 talk briefly to the Committee about an issue of great concern to my
28 organization, the Sierra Club.

29 The Sierra Club is an environmental organization nationwide of about
30 600,000 members. My name is Robert Deegan. I am with the Virginia Chapter of
31 the Sierra Club and will speak on behalf of our national president, and I am
32 asking them to distribute a letter from our national president to the
33 Secretary of Energy, Secretary O'Leary, on this particular issue, which is of

1 major concern to us.

2 The issue is the import by the Department of Energy of spent nuclear
3 fuel rods into the United States which we see could be the beginning of a
4 series of different programs of shipments of nuclear waste into the United
5 States, and we are concerned that proper environmental procedures be followed
6 and that we not be hasty in proceeding on this matter without careful review.

7 There are several matters of importing nuclear waste into the United
8 States that one hears about nowadays, and I would invite the attention of this
9 Committee to that because it seems to me that it's an area in which the United
10 States could be taken advantage of to unload world problems unnecessarily upon
11 the United States when perhaps we shouldn't.

12 One thinks immediately of the appealing project of the United States
13 taking some nuclear waste from Russia, and we know that there are some plans
14 that have been developed along that line. We're not focusing on those now
15 because those are not upon us. What is upon us perhaps as early as the early
16 part of this coming year, 1994, is the shipment of spent nuclear fuel rods
17 from foreign research reactors into the United States from 28 different
18 countries over a period of 15 years.

19 The program as laid out would go for about 500 cask shipments, and our
20 concern is specifically with the proposal to start these shipments prior to
21 the environmental review process being completed and the environmental impact
22 statement being prepared.

23 The EIS is scheduled to be completed in June of 1995, and, indeed, they
24 have just completed the EIS scoping hearings at nine different locations
25 around the country and are just getting into the environmental review process.
26 A lot of issues have emerged about the matter of these rods. I've read in the
27 DOE literature that it's 15,000 fuel elements from the research reactors, and
28 our concerns in part are with regard to the mechanics of how to do it if it's
29 necessary, what routing, low-population density concerns, where is the blessed
30 place to store it, is there a long-term plan for where it's going to be stored
31 in the long run.

32 The initial plan is to ship some of these rods down to the Savannah
33 River site in South Carolina, and our concern is, first, whether thought has

1 been given to how long they're going to stay in that receiving basin for
2 off-sites fuels in South Carolina and are they going on then to somewhere
3 else, will that be the repository, is that going to be okay. From all that
4 we've seen, that hasn't been worked through yet, and, no doubt, some of these
5 issues -- and there are many that can be mentioned -- will be explored in the
6 EIS process.

7 Our great concern is the proposals to use emergency exemption procedures
8 to go around the environmental review process to get started on the first 25
9 cask shipments. Admittedly, we're talking about rather modest quantities to
10 get going, but we see a big principle involved here as to whether you can get
11 started on the project and get going before you complete the environmental
12 review process.

13 I'm a believer that the Department is turning over a new leaf and that
14 the old Department of Energy and some recklessness of doing things without
15 thoroughly exploring the environmental consequences, that those days are over,
16 but one concern is that now when we're actually at a point where we're talking
17 about moving highly radioactive radiated fuel rods, coming out of reactors and
18 in something as controversial as them coming into the United States, that
19 there would be serious consideration to doing this without taking the 18
20 months of review in the environmental impact statement process to be sure that
21 it's really necessary that it does, indeed, advance the goals of nuclear
22 nonproliferation, which we support, or whether in fact it's somebody, the
23 reactor operators overseas, and their government is trying to unload a problem
24 on the United States, that they ought to be getting in gear on and helping to
25 solve themselves.

26 In reviewing the documents and going through them, one doesn't see any
27 sign of the governments of these countries stepping in to try to help with
28 this problem themselves, and the first countries in line on shipping into the
29 United States are Australia, Austria, Belgium, Netherlands, Sweden, Germany,
30 and one here lately is Denmark. These sound to me like very stable countries,
31 reliable countries. Indeed, some of them are close military allies, and one
32 wonders what about some of these repositories that have been talked about in
33 those countries.

1 I know that there are four countries in Europe where there has been
2 discussion of the development of geologic repository storage. Could these
3 spent rods be stored there?

4 Also, one hears that, oh, urgent relief is needed, and we can't wait for
5 your United States law, National Environmental Policy Act EIS review. We've
6 got to get started on an urgent relief basis. We don't have time to wait for
7 the United States law because our government is not allowing us to keep it
8 here anymore, and it's got to be disposed of quickly. It's insecure where it
9 is. Some of it is HEU. Some of it is LEU. One wonders why are we proposing
10 to take both if, indeed, what we're really concerned about is proliferation of
11 HEU and getting into international commerce, why don't we just take the HEU?
12 Also, one wonders why do we propose to continue giving more HEU to the reactor
13 operators if it's such a terrible thing for this HEU to be out there and do
14 all of these reactors really need to keep operating and so forth.

15 I don't want to go into too many of the issues that can be debated here
16 on the matter, but I think this is an area in which the Department in my
17 impression is under pressure from the State Department to further good
18 relations with foreign countries. They're under pressure, I know, from the
19 lobbying organizations for the reactor operators, who understandably want to
20 get rid of the waste, but I asked the assistance of the Committee to look into
21 this matter, take it as one of your agenda items, because it will be the
22 beginning of a series of import situations of waste coming into the United
23 States, and it seems to me this particular one at the beginning is a good
24 example of the way in which the United States could be taken advantage of in
25 its good intentions to take fissile materials off the world market.

26 I'd be happy to answer any questions, if you like.

27 CO-CHAIR COSTLE: Thank you, Mr. Deegan. We certainly will receive this
28 material and have a chance to talk about it.

29 I notice that you did write a letter to Hazel O'Leary on the 11th,
30 Michelle Perrault's letter. Have you had a response to that?

31 MR. DEEGAN: We have not.

32 CO-CHAIR COSTLE: Would anybody like to ask Bob any questions?

33 CO-CHAIR ALM: Mr. Deegan, I'm curious. The list of countries that you

1 read, are those the only countries for which these shipments are going to
2 occur? Was that on an illustrative list?

3 MR. DEEGAN: The names of the countries that I read were the countries
4 that are seeking to ship the spent nuclear fuel to us in advance of the
5 environmental review. They claim that urgent relief is required. We and a
6 number of other environmental organizations that have submitted comments on
7 the environmental assessment plan that would permit that dispute whether that
8 is really the case, whether urgent relief is necessary.

9 Naturally, one would say, well, who are you, a little grassroots
10 environmental activist, to be questioning the great United States Government
11 as to whether urgent relief is really needed, but I think we ought to be
12 suspicious when we see those list of countries that are seeking to circumvent
13 the environmental review process.

14 If those were a half-dozen countries that were unstable countries that
15 might have a revolution next month or there was a genuine risk of the fissile
16 material being taken out of those rods and getting out of control, well, maybe
17 we might be more sympathetic, but those countries are as devoted to
18 nonproliferation as we are and are certainly in a position to safeguard that
19 material, especially if we assist them with on-site storage, and we've got a
20 lot of experience in this country with our utility operators, with on-site
21 storage, how to do it safely. I would urge that we take the time to do the
22 environmental review rather than accepting in many instances the unverified
23 word of the reactor operators about what to do.

24 Another dimension of this is that we believe and have recommended that
25 the Department of Energy have a team of its own go over and verify the
26 conditions that are being asserted by the reactor operators. They have a
27 powerful economic incentive to say whatever is necessary to get it in the
28 United States, and nobody is saying that they would falsify, but they
29 certainly would present to the best advantage of themselves. We need to have
30 a Department of Energy look at that and be sure that the information we're
31 getting is correct.

32 CO-CHAIR COSTLE: Bill?

33 DR. FREUDENBURG: This is actually a follow-up on Al's question, but

1 just a simple yes or no is fine, but that list you gave us is the complete
2 list of the countries that are looking for this advanced taking of the waste?

3 MR. DEEGAN: Yes. There were six countries. Indeed, the first country,
4 the Secretary of Energy for Belgium declared an emergency, and then, for
5 reasons that are not entirely clear to me, Belgium decided, oh, they didn't
6 really need to send it to us after all, and I understand the material went to
7 a reprocessing plant in Scotland.

8 That opens the question of, well, isn't the United States against
9 reprocessing of the spent fuel rods, and, as a general matter, I think we are
10 against reprocessing, and the Sierra Club agrees with that.

11 But, for goodness sakes, this is located in our closest military ally.
12 In this period, if any of these rods do indeed have to go to reprocessing in
13 Scotland, surely, Great Britain can act to assure that none of this material
14 gets out of control or that there are any problems there.

15 Moreover, we would point out on the general issue of whether this
16 material needs to come into the United States at all. It seems kind of
17 inconsistent for the United States to be all worried about this material being
18 reprocessed in Scotland, but, at the same time, the US Government, the State
19 Department is not objecting to major reprocessing going on of other nuclear
20 fuel for Japan, for the commercial reactors in Japan, waste being shipped to
21 France and reprocessed there, for reprocessing being done by commercial owners
22 of fuel in Europe.

23 So our bringing this in here while being quiet and not objecting to lots
24 of other reprocessing going on makes us skeptical as to whether this fuel
25 really needs to come in.

26 CO-CHAIR COSTLE: Thank you, Mr. Deegan.

27 Tad, you had a question?

28 MR. McCALL: This was an issue that I just blindly accepted the need for
29 emergency on. I'm sure that there is urgency or we wouldn't be in this
30 situation, but it's a situation in which the governments could see building
31 for a long time. That must have been evident. I think that there is a
32 certain legitimacy to this proposal. If we've had time to plan already, why
33 don't we take some time now, if we haven't done that planning, to do it.

1 I would submit that there is an arrogance in the Department of State,
2 the US Trade Representative, against environmental impact studies. I ran into
3 it at EPA when we were working on trade agreements. We're running into it
4 right now with the chemical demilitarization processes that the US Government
5 wants to institute saying that you've got to go on with the potentially flawed
6 Army incineration program because, come hell or high water, you're going to
7 meet treaty obligations for demilitarizing these weapons, even though we've
8 got instabilities such in the eastern Europe that they may not be able to
9 comply with their part.

10 So I'd like to commend this presentation because I think it gives us
11 really some pause to just not question that there's some urgency, but question
12 that our Government might do a little bit more rather than just suspend the
13 NEPA provisions in this situation, and I think you've suggested some possible
14 ways to give us enough time to get to that window.

15 Thank you.

16 MR. DEEGAN: I agree completely. Thank you.

17 CO-CHAIR COSTLE: Vicky?

18 MS. DASTILLUNG: Is there a mechanism in these agreements that would
19 encourage these countries to either figure out how to handle their own waste
20 or quit producing it, so that we don't take it in forever? Also, who is
21 paying the cost for all of this?

22 MR. DEEGAN: Let me start with the second question first. The question
23 of who pays the cost is a topic for resolution in the EIS process, but the
24 original proposal is that developing countries' shipments and the disposition
25 of the nuclear waste for developing countries would be at the expense of the
26 US taxpayers. For developed countries, that would in general be at their own
27 expense; that is, the reactor operators. But those are matters that the
28 Department lays out for consideration in the EIS process which we point out
29 won't be completed 18 months from now. That's one of the issues to be
30 resolved.

31 You may be pointing at the issue, if you're doing it for free, doesn't
32 that encourage the developing countries who in general have a lower level of
33 stability, to keep on operating those reactors, to keep on creating more spent

1 nuclear fuel, and for developing countries to open new research reactors? So
2 you can see there is a possibility that by being too soft on taking this stuff
3 back that in effect we are having exactly the opposite effect of what we
4 intended.

5 We may be encouraging all of these reactors to go on because if we held
6 the foreign nations' feet to the fire and made them begin to confront the
7 tremendous nuclear waste problem as we are having to come to grips with it,
8 some of which we could not foresee decades ago, if we allow them to get off
9 the hook and don't have to confront it and just ship it to the United States,
10 we are in effect encouraging this to go on.

11 Surely, it's absolutely clear that at the end of this 15-year program,
12 there will be another 15-year program because there's no discussion of
13 shutting down any of these reactors, and we think that's one area that ought
14 to be considered.

15 Surely, there are from these reactors some advantageous things,
16 isotopes, medical use, and so forth, but maybe they could be done on a
17 regional basis. Maybe some of the things could be exported from the United
18 States to provide the isotopes and so forth.

19 CO-CHAIR COSTLE: Russell?

20 MR. JIM: Yes, very briefly, Mr. Chairman.

21 In particular, the concern that you have brought out, I can perhaps
22 relay some concern of Australia, the Aborigines there. It is not their choice
23 that these reactors and/or nine nuclear tests were advocated by them, but then
24 again, they are faced analogous to the Western Shoshone and 16 other tribes
25 around the Yucca site, it was not their choice to have a repository or tests
26 in their region. That is the reality. It has happened.

27 Now, what would the probability of placing this material be, probably in
28 the same Aborigines' areas? They are probably objecting down there and they
29 are probably putting objection on the State to have the United States take
30 their material back. On the other side of the coin, we realize that some of
31 that stuff may be coming to Hanford or some other area that has to be, has to
32 have a park to be brought into and you're going to be shipping that stuff past
33 Indian reservations in this country.

1 So, you have a tremendous problem here. So, I just wanted to relate a
2 thought process that, there are Aborigines in other parts of the world that
3 have been subjected to a lot of these materials and are continuing today to be
4 subjected to it and perhaps object.

5 MR. DEEGAN: I think your comments are very well taken and what we are
6 advocating is a country by country review of the justification for this
7 material coming back to the United States. Now, we don't profess to have all
8 the answers. We are guessing that there will be some countries for which
9 there is a very good justification for the material coming to the United
10 States and others where it will not. So, we advocate the individual review
11 and verified information from each country by the Department.

12 Skipping to another point that you touched on about the ultimate
13 disposition for any of this waste that comes into the United States or comes
14 to us, it is not clear that it can go to Yucca Mountain. My understanding is,
15 some agreements and guidelines have been made pertaining to that repository
16 that is being explored at Yucca Mountain that would not allow this material
17 under the present guidelines to go to Yucca Mountain. So, somebody needs to
18 give some thought as to where is it going eventually.

19 The third and last point that I might touch on here is, given that, it
20 could be decades that this is in interim storage, presumably at Savannah
21 River. We are concerned about it going into a 30-year old receiving basin
22 that has a building over it that is not up to standards for earthquake,
23 tornado, hurricane and so forth in South Carolina. We are concerned that the
24 receiving basin that does not have a detection system for leaks going out to
25 the aquifer into the ground.

26 So, there are a lot of issues to be explored here and I get back to our
27 point that, we need to take a year and a half. I would hope that you might
28 keep the Committee up to date on what this is, because there is a potential
29 here for both the people of the United States and the Department of Energy to
30 be taken advantage of here.

31 CO-CHAIR COSTLE: Ben.

32 MR. SMITH: I'm just wondering if there is anyone here from the
33 Department of Energy's side of the house that could articulate the policy and

1 the rationale behind the policy that drives the receipt of this material from
2 foreign countries. Is there anyone who wants to take that on?

3 MS. LYTLE: This is a very complicated issue. Some of the things that
4 he mentioned are the ones that we are looking at right now, particular the
5 issue of a country by country justification of why certain reactors should or
6 should not be considered for early receipt of their spent fuel and what are
7 the specific justifications for those. Also, the issue of verifying the
8 conditions, we are talking about that. There is a lot of discussion going on
9 in the Department right now about how we should respond to the concerns that
10 have been raised by the Sierra Club as well as other people in this whole
11 process.

12 What I might suggest is, it might be better if we could have someone
13 come and present a full discussion on this.. I think it would be helpful,
14 because it does involved both the State Department in their role as the non-
15 proliferation policy leader as well as the Department of Energy.

16 Basically, the program, just to take a few minutes on it, the purpose of
17 this program to bring back the spent fuel is really not to bring back the
18 spent fuel, but to encourage countries that are involved in research programs,
19 reactor research programs to shift from using high enriched fuel, which many
20 of the countries did use in the past, to low enriched fuel, which is a much
21 different issue and does not present the proliferation problem that having the
22 high enriched fuel available in international commerce presents. So, the
23 whole purpose of this program was to encourage the reactor research programs
24 all around the world, both in the developed countries as well as the
25 developing countries to shift to low enriched fuel.

26 It is a complex issue involving commitments that were made over the
27 years and the question of whether the US will be able to meet its commitments
28 under these agreements that were made by which the countries agreed to shift
29 to low enriched fuel on the understanding, the quid pro quo that we would take
30 back the spent fuel. For many years, we did take it back. There is a long
31 history. Again, I think it would be helpful to go through an actual briefing
32 on it, where the Department committed, I believe it was in 1987, '88 to do --
33 in '88 it was suspended. So, for 20 years we actually took it back, from '68

1 to '88.

2 MR. DEEGAN: May I point out that that was done secretly and without
3 going through any environmental review process whatsoever.

4 MS. LYTLE: Well, I don't want to respond to the issue of secret. The
5 second part is true. I don't think it was a classified fact that we were
6 doing this. I mean, just to point out that it wasn't done, not with the kind
7 of secrecy that you might associate with weapon design or things like that.

8 But fair enough, there was not a NEPA review done of this program. So,
9 in 1988, the Department did undertake to do a NEPA review. Now, we did not
10 undertake to do an environmental impact statement. The decision that was made
11 was to do an environmental assessment, which is a different type of document.
12 There is certainly a lot of controversy about whether that was a good decision
13 or not. The Department went through a long process starting in 1988 to work
14 on that environmental assessment and the program was suspended at that time.

15 So, we have not taken any spent fuel back from these countries for five
16 years now, over five years, which has in part created this issue of the spent
17 fuel building up in these storage pool. So, it is a long, somewhat difficult
18 story, again, going back to -- I don't want to debate the issue of whether it
19 was a good decision in 1988 not to do an EIS. Looking back on it, we
20 certainly would be in a much better position if we had.

21 So, when we agreed recently that we would do an EIS on this program, I
22 think this was a very important thing to do and we have made the commitment to
23 do that. Our commitment is to finish that by 1995. What we were left with
24 was, unfortunately, the issue of whether between now and then which is
25 approximately 18 more months, is there any fuel that really needs to come back
26 to the United States before we can finish that impact statement? I think you
27 have raised some important issues about the kind of criteria we need to use
28 for that decision.

29 CO-CHAIR COSTLE: Thank you, Jill.

30 MR. SMITH: When we hear our speaker talking about the incentives
31 involved in this and the economic benefits that cut one way or another, it
32 seems like shades of the days when the Atomic Energy Commission encouraged
33 universities all around the country to possess nuclear materials. They

1 participated in the spread of sealed sources to commercial interests all
2 around the country without requiring financial assurances about how those
3 sealed sources would be managed.

4 Now, we are still dealing with the legacy of that kind of policy. Dick
5 knows exactly what I am talking about.

6 So, I think we really have to consider when we make these decisions what
7 kind of policy and what kind of legacy of those policies we will have to deal
8 with years from now. I just urge you to take this seriously.

9 MS. LYTLE: We do.

10 MR. DEEGAN: I might interject one point that an earlier question
11 raised. It is exactly what is the US commitment? I think that would bear a
12 close explanation of this Committee. We have seen documentation that the US
13 has no legal obligation to take this material back. There is a very
14 complicated story about whether we really have made any commitments or whether
15 those commitments are still binding on us to take it.

16 CO-CHAIR COSTLE: Okay, we have several other people wishing to appear.

17 I'm sorry. Ron, did you want to --

18 MR. KUCERA: Jill, I just wondered if you could clarify as to -- because
19 I don't think it is on the record, as to the source of the high enriched
20 uranium, which I believe is the fissile isotope we are dealing with here.
21 What was the original source of it that is being used in these countries?

22 MS. LYTLE: These are all US origin, high enriched uranium. That's
23 actually how we came to be involved in this program. We felt that, since we
24 had supplied the high enriched uranium for this and, in all honesty, going
25 back to the Atoms-for-Peace, Eisenhower era, at that time, this was all very
26 consistent with our proactive attempt to get research on that kind of material
27 done around the world. So, that really forms the basis for our commitments.
28 I realize there may be some issues as far as the legal underpinnings of the
29 policy to try to shift from the high enriched uranium, which we did supply to
30 low enriched.

31 MR. DEEGAN: Mr. Chairman, I would point out that we could also very
32 soon be on the non-US origin. Once they get the shipments going of US origin,
33 it could next be non-US origin materials. You may be skeptical, but I would

1 point out that the Department accepted non-US origin spent nuclear fuel in the
2 mid-1980s. I know of the one instance from Taiwan from 1986 and the latter
3 part of the 1980s, we took non-US origin.

4 So, some of our concern is, this is just the camel's nose coming under
5 the tent again that, soon we will hear a very good rationale why we should
6 take non-US origin. Then after that, it may be a very good rationale as to
7 why we should take commercial fuel rods, because of some particular set of
8 circumstances.

9 So, I hope you can understand our concern that, this to some degree is
10 just the beginning.

11 MS. LYTLE: I do. Believe me, I understand your skepticism on it. I
12 don't want to debate that. Yes, we did take shipments from Taiwan. There
13 were some very special circumstances there, but agreed, we did.

14 MR. KUCERA: Mr. Chairman, I think it would be reasonable for us whether
15 it is in a formal briefing before the whole Committee or at a minimum a memo
16 presentation to us to try and brief the Committee on what types of -- what are
17 the dimensions of this obligation for which the United States may have to make
18 good on some obligations that would actually affect the mission as we're
19 looking at it, for dealing with the weapons waste sites in the United States.
20 I think this does offer an additional complication that we haven't really
21 taken into account, at least, this Committee has not.

22 MS. LYTLE: I will be glad to work with the Committee on whatever format
23 that should take.

24 CO-CHAIR COSTLE: I would like to move on now if we can, because we do
25 have several other people who would like to make presentations. So, thank
26 you, Bob.

27 MR. DEEGAN: Thank you.

28 CO-CHAIR COSTLE: Is Rocky Wilkinson here?

29 Rocky, do you want to come up? You're not Rocky?

30 MR. PLEMMONS: No, I'm not. I'm his assistant.

31 CO-CHAIR COSTLE: Is he planning to be here?

32 MR. PLEMMONS: No, he won't be here tonight. He had another meeting.

33 CO-CHAIR COSTLE: Okay.

1 We have several people to follow you. So, I would, just in the interest
2 of the hour, urge everybody to be fairly succinct.

3 MR. PLEMMONS: Okay.

4 I have some copies of my testimony that can be passed out. Then, I
5 won't read it all.

6 [Pause]

7 MR. PLEMMONS: My name is Clayton Plemmons. I am the Assistant Director
8 of the Laborers Employers Cooperation Education Trust. I am standing in for
9 the Executive Director, Rocky Wilkinson tonight.

10 We appreciate the opportunity to appear before this Committee on behalf
11 of the Laborers' International Union of North America and its associated
12 labor-management, safety and health, training and cooperation trust funds.
13 LIUNA represents over 500,000 members of which some 360,000 are construction
14 laborers. Construction laborers are 20 percent of the construction work force
15 and the principal trade engaged in environmental remediation activities.

16 We have appeared at each of your past hearings to present the views of
17 LIUNA and its associated funds on several critical matters relating to
18 training, safety and health at the DOE weapons facilities. We urge the new
19 members of the advisory committee, including the new co-chairmen to review our
20 testimony, as the concerns we expressed nearly two years ago, at the very
21 first meeting of this Committee have not been seriously addressed, even though
22 you are now advising a Department with a new Secretary of Energy and a new
23 Assistant Secretary for Environmental and Waste Management and a new Assistant
24 Secretary for Environment Safety and Health.

25 Our members have been a part of the nuclear weapons complex for a half
26 century. They were a major part of the original construction crews that built
27 the facilities. They have been a part of the construction work force ever
28 since and they are and will be an increasingly significant part of the work
29 force that will participate in the cleanup of these facilities.

30 As we testified at each of the hearings conducted by this Committee,
31 LIUNA has a significant interest in the environmental restoration program of
32 the Department of Energy, because its members are heavily engaged in the
33 actual cleanup work on virtually all of the major nuclear weapons sites. We

1 have presented testimony on our cooperative program with contractors at the
2 first meeting and we provided testimony before this Committee at all
3 subsequent meetings concerning the program that LIUNA has for training workers
4 who will be engaged in hazardous waste cleanup.

5 We have concentrated on the importance of training, because the nature
6 of the exposure to workers from the wastes generated by the weapons complexes,
7 including substantial quantities of mixed wastes requires that experience
8 workers need a high level of competency and proficiency in construction skills
9 and site-specific training to undertake the environmental cleanup work safely
10 and productively before they are placed on the job. We have particular
11 concerns about the safety and the acute and long term health of workers who
12 will be undertaking the environmental cleanup in our society, particularly the
13 cleanup work at these weapons facilities. Further, we recognize that worker,
14 public and environmental protections are a continuum that begins with the
15 workers, as they are the first and worst exposed.

16 The Department has yet to issue a new guidance document on safety and
17 health compliance, even though a directive to do so has been in effect for
18 three years. The existing safety and health program for construction is
19 wholly inadequate as the DOE claims it has no way of enforcing safety and
20 health programs at the subcontractor level. The DOE's planned construction
21 program is not in place despite our concern expressed more than a year ago
22 about the urgency of such a program.

23 In June of this year, we presented testimony before the DOE contract
24 reform team on ways to assure construction safety and health accountability.
25 We have had no response to those suggestions. Under the DOE instructions from
26 Admiral Watkins, the environmental restoration and waste management program
27 was required to set up an OSHA-type enforcement activity. It is now almost a
28 year into Secretary O'Leary's tenure and the required enforcement program
29 activity has yet to see reality in the operating programs, specifically in the
30 environmental restoration and waste management.

31 We believe that this Committee should continue to stress the importance
32 of health and safety issues during its deliberations and we continue to offer
33 our experience and expertise to the Committee and the Department in developing

1 the necessary safety and health and surveillance standards that will lead to a
2 comprehensive worker, safety and health program. Our concerns are very
3 tangible and we believe that there are very specific activities that must be
4 undertaking by the Department and its contractors to insure the safety and
5 health of workers and the community during these very long cleanup programs.

6 Our Labor Health and Safety Fund of North America staff has been
7 instrumental in working with the EPA on similar programs and we have attempted
8 to share this experience with the DOE, albeit with limited acceptance. We are
9 regularly participating in stakeholders' meetings, contract reform hearings,
10 labor management meetings with the Secretary and various study groups within
11 the environmental restoration and management environment and the environment,
12 safety and health programs. We continue to be frustrated over the inability
13 of the Department to execute on proposals and the penchant for interminable
14 study and restudy of safety and health proposals that are well proven in the
15 rest of the industry and do not require treatment as though they are newly
16 emerging scientific concepts that require rigorous testing.

17 The magnitude of this cleanup program is enormous. We understand that
18 it will take many decades to achieve regardless of the process or procedures
19 used. As LIUNA Vice President Barnes stated before the Committee last year,
20 our concern is that there be a very clear understanding of work place safety
21 and health issue in any strategic plan as well as a commitment to insure
22 consideration of these issues in the implementation of the program.

23 Our organizations have made multiple appearances before your Committee
24 in order to stress the urgency of the problem for our members and to make
25 clear to you our belief that worker training and safety and health compliance
26 or the linchpin for success in the cleanup program. The results thus far are
27 not encouraging. We have stressed the integrated nature of our approach in
28 emphasizing comprehensive worker training as well as a significant safety and
29 health program. We have made very clear in our testimony at each hearing that
30 these programs will not be successful without the full involvement and
31 cooperation between the unions and the contractors in a labor-management
32 framework.

33 We have yet to see an executed plan. It is still not clear within the

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1 DOE as to who is in charge of actually ensuring safety and health compliance
2 by contractors and subcontractors. There is still no comprehensive safety and
3 health compliance program in place. There is still no credible construction
4 safety and health program in place. We continue to see foot-dragging by the
5 contractors and DOE field facility management in accepting our peer-reviewed,
6 proven worker training programs, and the DOE continues to defy the will of
7 Congress by putting a medical surveillance program in place at these
8 facilities.

9 We urge this Committee to continue to place the issues of workplace
10 safety and health, worker training, and worker medical surveillance as
11 critical issues for the environmental restoration program, and we again urge
12 this Committee to make clear to the Department of Energy leadership that these
13 issues must be addressed promptly by action.

14 DOE's environmental restoration mission may indeed prove a more
15 hazardous mission than did its production mission. The time for endless study
16 of worker safety and health issues is long past. The time for serious
17 implementation of a comprehensive worker safety, health, training, and
18 surveillance program is long overdue.

19 I would be pleased to answer any questions you may have based on this
20 testimony tonight to the best of my ability.

21 CO-CHAIR COSTLE: Thank you.

22 Were you here earlier today?

23 MR. PLEMMONS: No, sir, I wasn't.

24 CO-CHAIR COSTLE: We did have a briefing from Tom Grumbly's staff with
25 the schedule and timetables. I think it's safe to say that everybody in this
26 room fully shares your concerns and feels that it's long overdue, but I'm new
27 to this particular set of issues, but my sense is that there's some impatience
28 on Tom Grumbly's part that it is not proceeding faster as well.

29 Would any of the Committee like to address Clayton? Bill?

30 DR. FREUDENBURG: We often criticize the folks from DOE for not
31 listening carefully enough, and it may be that in this case, I wasn't
32 listening carefully enough because although I've heard several testimonies
33 from LIUNA, I hadn't previously heard the offer to work with us on a medical

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1 surveillance program, following the workers over time.

2 I wonder if your union would be willing to put together a brief simple
3 English language version of what you would suggestion, a five-page thing that
4 says this is what we think a good worker surveillance program would look like.

5 MR. PLEMMONS: We are currently actually doing that with the ATSDR or
6 for the ATSDR. I believe I saw a memo just dated yesterday, if I'm not
7 mistaken, that they have entered the last of the information on 12,500 workers
8 that they are tracking throughout the United States, and it's based on
9 voluntary. When they come back in for recertification, that's when it becomes
10 voluntary on the individual's part, and then it will track them for whatever
11 length of time the contract requires.

12 That will be no trouble. I will have them submit that, if you like.

13 DR. FREUDENBURG: I would very much like that. We've had some problems
14 with a voluntary program, and there might be some people who would feel that
15 they didn't want to be counted maybe because they were doing jobs in too many
16 sites at once, getting too much of a dose, and they would decide to take that
17 risk for their own purposes, but they might be at greater risk than your
18 average worker, and we might be missing them, but I would be interested in
19 seeing some of the basic details, particularly if we could get it in English.

20 MR. PLEMMONS: Okay.

21 CO-CHAIR COSTLE: Shira?

22 MS. FLAX: Earlier today, we received briefing as Chairman Costle men-
23 tioned. We received a briefing from the person within EM who is responsible
24 for worker safety, and the briefing articulated a strategy and then an action
25 plan, et cetera. Would you like to comment on your organization's evaluation
26 of that strategy and action plan?

27 MR. PLEMMONS: I don't know if I'm qualified from my position to comment
28 on how they would feel about it, not having an opportunity to view it, and I
29 haven't been deeply involved with the tracking program with respect to what
30 our health and safety fund is doing with the ATSDR either to know exactly how
31 it works other than there were several thousand people involved, and then
32 there is interviewing and backup as they come in for recertification. So we
33 know where they've been, what's going on in their life, and I think there is

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1 also a supplemental medical review that's done at that time.

2 MR. FLAX: Good. That is good.

3 MR. PLEMMONS: I think they submit to, off the top of my head, the blood
4 pressure, respiratory, spirometry, and some other things that they've got
5 outlined that they're rechecked on.

6 CO-CHAIR COSTLE: Glenn?

7 DR. PAULSON: As usual, I'll use first names when I know the people.
8 Thank, Clayton.

9 In response, Shira, to your comment, I was heartened by what Randy said
10 today, too, but my memory goes back long enough including before the existence
11 of this Committee when there were other initiatives announced by key people at
12 Headquarters that died somewhere in the halls of the Forrestal Building and
13 just never got out, and so I'll join Ron and be from Missouri and say I need
14 to be shown that this one will be any different.

15 I have high hopes. It's a new team. Tara O'Toole is one of my favorite
16 people, et cetera, et cetera, but the history is not that comforting, and it
17 may be that it's not the leadership, but the next tiers down that have stopped
18 things from happening across this front.

19 I want to second Bill's request to get before the Committee more
20 information on the medical surveillance. This is something that has been of
21 intense interest to me professionally for a lot of years now, and it's very
22 difficult to do technically, but, in addition to the technical/medical
23 cost-effective side of it, there's also a management side, and one of the
24 common failings in the private sector Superfund program and the EPA program
25 for this is that, while the first tier contractors may in fact have a good
26 medical surveillance program, this is not often forced to go down to
27 subcontractors. That's often the big gap, and this would be a clear and
28 present danger in effect for the DOE program as well. So there's a management
29 element as well as a technical element to this, the medical worker
30 surveillance issue.

31 MR. PLEMMONS: Would you like that directed to the Chair?

32 CO-CHAIR COSTLE: Yes.

33 MR. PLEMMONS: Okay. I will have that taken care of this week and sent

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1 to you immediately in English.

2 DR. PAULSON: Thanks.

3 CO-CHAIR COSTLE: Thank you, Clayton.

4 MR. PLEMMONS: Thank you very much.

5 CO-CHAIR COSTLE: Jim Kelly and Dennis Wise, are they present?

6 [No response.]

7 CO-CHAIR COSTLE: David Treanor?

8 David is with the International Union of Operating Engineers. Welcome.

9 MR. TREANOR: Thank you.

10 I want to thank you all for giving me the opportunity to come before you
11 and address you about the International Union of Operating Engineers and
12 specifically about our HAZMAT training program and some of the experiences
13 we've had with the Department of Energy.

14 As best I know, this is the first time someone from our organization has
15 addressed this Committee. So I thought it might be wise to give you a little
16 background as far as who we are.

17 For many of you, the name International Union of Operating Engineers
18 doesn't really clearly identify those workers that we represent. We represent
19 heavy equipment operators and stationary engineers. We're very much involved
20 in the moving of dirt, earth-moving machines such as cranes, backhoes, dozers,
21 scrapers, and dredges. We have about 375,000 members, and our members are
22 very much involved with the LIUNA on the environmental clean-up jobs through-
23 out the country and within DOE and EPA.

24 We have members that work for both the M&O contractors in a number of
25 DOE facilities, and we also have members that work for a number of the
26 construction contractors at DOE.

27 We realized early on as this environmental restoration work started up
28 in earnest that our members were going to be called on in great numbers to
29 participate in this cleanup effort. As their labor organization, we thought
30 it was very important to provide comprehensive HAZMAT training. If these
31 members were going to go out onto these job sites and engage in this very
32 hazardous work that it behooved us, as their organization that represents them
33 with management, to provide them with the property safety and health training.

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1 So, along with a number of the other organizations, we lobbied on
2 Capitol Hill to get funding for grants, first with EPA and then with DOE, to
3 set up worker training programs. So, since 1987, we have operated with
4 Federal funding as well as our own funding to provide this safety and health
5 training. Specifically, what we have been doing is providing 48-hour site
6 worker training under 1910-120.

7 In the last year, we were awarded a second grant with the Department of
8 Energy to provide HAZMAT training specifically for the workers at these
9 facilities, and I must say that in our association in the last year with the
10 Department of Energy, they're very much hands on as far as looking into our
11 program and working with our training providers and the other grantees that
12 are involved in it to see that the training is proper.

13 One thing that we bring to our HAZMAT training is an ability through our
14 instructors to relate to our workers that go out on these job sites. We
15 utilize our apprenticeship and journeyman upgrading instructors to provide the
16 HAZMAT training. We have an intensive train-the-trainer program at the Mine
17 Safety and Health Administration Academy in Beckley, West Virginia, and
18 through the past seven years, we've been putting on annual 40-hour classes for
19 these instructors. Their initial training is 80 hours, and then they come
20 back for 40 hours.

21 So we feel that through these instructors, they can relate to the
22 workers and members that they instruct, and what's more, there is a tighter
23 bond that our instructors and our program has that many other HAZMAT training
24 providers don't have, and that is this is a brother or sister member that is
25 coming back each year to receive a refresher and attends the union meetings,
26 and it's more than just cutting a check to pay for a 40-hour training course
27 and then the provider never seeing that worker again. So there's much more of
28 a connection between these instructors and the members that take the course.

29 We really, I guess, like DOE in many respects and the labor organization
30 and, I guess, the operating engineer as well, have a poor PR problem, and the
31 general public when they hear about labor unions and what we do as far as
32 training, I think they think in terms of crooked noses and somebody being
33 buried at Giants Stadium.

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1 So what we've tried to do is open up our training and invite people from
2 the contracting community, from Government agencies, and from environmental
3 groups or just the concerned general public to see what we're all about, to
4 come in and view and sit in on our sessions and take our entire training, just
5 to see what we are trying to implant onto our members. I think through this
6 process, we've been able to open up a lot of doors at the Department of
7 Energy.

8 Where there was once skepticism, there is now a feeling that these guys
9 are really concerned about their members that are going to work out on this
10 site. So this has been, I think, a very successful component of what we've
11 been doing, and I would urge any of you that would be interested in viewing
12 our training program to let me know, and I'd be happy to arrange for you to
13 see some of our sites.

14 One of the things, when we started our DOE grants program last summer,
15 that we've had difficulty with, quite frankly -- and Tom Grumbly alluded to
16 this earlier and Pat Whitfield did as well -- is trying to identify what work
17 orders are coming up and to determine what manpower needs are there.

18 We, as a labor organization and for our building trade members, serve as
19 a referral hall. When a contractor needs a dozer operator, he will call our
20 local union, and we will send the best dozer operator that's on the list out
21 to man that job. One of the problems that we have in trying to train our work
22 force, our membership, is to know what work is coming up, and that has been a
23 problem that we've tried to address in a recently completed needs assessment,
24 and that is to identify what the demands for equipment operators would be in
25 the next year. Quite frankly, we're just having a hard time. It's like
26 pulling teeth from some of these facilities to try and get that information.

27 We've been reviewing the five-year plans and the ADSs and to try to
28 extract from these facilities what their work plans and manpower needs are.
29 It doesn't seem like there's the linkage amongst the contractors between their
30 production staffs and those that are letting the work and their training
31 staffs. So I would urge this Committee to look into that. Obviously, we want
32 to have a safe and proper work force out there and one that works efficiently.
33 So I think there needs to be more of a tie-in between the letting of the work

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1 and making sure that the proper manpower is available to man those jobs.

2 Again, I want to reiterate the fact that I think that the work our
3 training program is providing is very appropriate. We emphasized the hands-on
4 exercises or field exercises that our members will encounter out on the job
5 site in our training, and we would welcome the opportunity to work with the
6 Department of Energy to increase the sophistication or the appropriateness,
7 rather, of the field exercises that we have incorporated in our training.

8 At this point, I'd be willing to take any questions that you might have.

9 CO-CHAIR COSTLE: Thank you, David.

10 Russell Jim?

11 MR. JIM: The only stationary engineers I knew worked for the Bureau of
12 Indian Affairs.

13 Would you define what you mean by stationary engineers?

14 MR. TREANOR: I'm sorry. I really skipped over them and went really
15 into the heavy equipment operators.

16 We have two distinct units, branches. The heavy equipment operators,
17 which what I said, are earth-moving equipment operators. Then stationery
18 engineers are who operate and maintain a wide variety of furnaces, heating and
19 air-conditioning and water systems, and they work with the M&O contractors at
20 a number of the different facilities.

21 MR. JIM: Thank you.

22 CO-CHAIR COSTLE: Glenn?

23 DR. PAULSON: Thank you, David. I can vouch for the quality of the
24 operators training program since I served on a peer review committee for it
25 under NIEHS auspices a couple of years ago. It's right up there in the top
26 tier with the Laborers and a few of the others.

27 On the medical surveillance question, you heard Clayton's testimony and
28 so on. Do the operators have an equivalent health and safety or medically
29 oriented fund that is dealt with the issue of surveillance of the work force
30 that's engaged in this kind of hazardous waste, the rad waste activity?

31 MR. TREANOR: To be quite frank with you, no. We are starting one up
32 now with this new DOE program. We had applied for funding several times to
33 get medical surveillance incorporated into our training procedure, and we were

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1 denied it, and organizationally we have not had the resources to undertake
2 that in a thorough fashion.

3 DR. PAULSON: Let me ask you to go back to your colleagues and see if
4 there is any surveillance program that they have identified that they think at
5 least in part would meet the needs of your members engaged in this kind of
6 work. If you don't have your own, maybe there is one that looks like it's at
7 least a good model, and if there is such and you could provide it to the
8 Committee, I think we would find it very helpful.

9 MR. TREANOR: I sure will. We are working with Dr. Jim Cohen, actually,
10 to develop a program, and it's much like what was described by the brother
11 from the Laborers.

12 CO-CHAIR COSTLE: Jerry?

13 MR. CHRISTEAN: Thanks for coming.

14 Because I have some knowledge of the operators union's participation in
15 the plants that we're talking about, I think the point should be made that
16 sometimes folks appear before us that are seeking, well, I guess, kind of an
17 advantage. They're trying to sell themselves as an organization. The
18 operators are not in that category because, regardless of how facilities are
19 going to be dealt with in terms of cleanup, the operators are going to be
20 there because they work both sides of that fence. So I just thought that
21 might add a little credibility to what Dave has put forward here.

22 Regardless of how the things are taken care of in those plants, they're
23 going to be there. So I thank you for coming and thank you what you're doing,
24 Dave.

25 MR. TREANOR: I appreciate it. Thank you.

26 DR. FREUDENBURG: I have just a follow-up on Glenn Paulson's question.

27 You mentioned that you had had a proposal to have medical surveillance
28 included as part of the training which would seem to me to be an invaluable
29 time to get baseline data on the workers and what their health was like before
30 they started working on these projects.

31 If that part of your grant is something that's 15 pages as opposed to
32 1,500, I'd be very interested in seeing that as well.

33 MR. TREANOR: I certainly will provide that.

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1 I'm sorry I might have confused you, but the Department of Energy
2 component of our grants program has provided funding for medical surveillance.
3 It's really just begun in the last few months.

4 For the seven years prior to that, we had an EPA grant and we still do
5 have an EPA grant, and we are not funded through that grant for medical
6 surveillance.

7 DR. FREUDENBURG: So DOE is the good guys and EPA is the bad guys. Is
8 that right?

9 CO-CHAIR COSTLE: That woke Tad McCall up.

10 Thank you.

11 MR. TREANOR: Thank you very much.

12 CO-CHAIR COSTLE: We very much appreciate you coming.

13 Mr. Larry Penberthy?

14 MR. PENBERTHY: Good afternoon, everyone. I am with Penberthy
15 Electromelt. We have specialized in the electric melting of glass and had
16 founded the present technology that's being used worldwide in 1949, and the
17 process of melting electrically is now producing 16 million tons of glass a
18 year. So it's a well-founded technology, ordinary glass, tumblers, plate
19 glass, containers, the general glasses of commerce.

20 I want to speak briefly first on the change in the operations plan at
21 Hanford. It was the idea they were going to separate out the very high-level
22 radioactive waste and then to put those into glass, mix them with the
23 boro-silicate glass, and put those logs, as they're called, canisters into a
24 repository in deep geologic. Well, the program was halted in March, and then
25 there was six months of re-baselining, and October 1st, that program was
26 thrown out. The official word was deferred by 10 years, but that puts it into
27 2028.

28 The program, however, was replaced by this logical one. They were
29 concerned about leakage from the old tanks, and, yes, indeed, a number of them
30 have leaked. So it's not an unreal supposition that the others will in time.

31 The program now is to take the liquids out of the tanks and to make them
32 into a glass, a vitrification program. Now, this is sensible and it's
33 logical, and it's fairly easy to pump those as opposed to taking out sludge

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1 which may be hardened. They don't know for sure. At any rate, to pump out
2 the liquids will take out the saturated solution of sodium nitrate. That's
3 part of the processing chemicals, and the sodium was added for storage. The
4 presence of the sodium, however, makes it impossible to use the French system,
5 in case people have talked about that. They start with an acid waste.

6 The sodium is a normal component of glass. Ordinary glass will contain
7 15 percent or 16 percent of sodium oxide. It's possible and is used in hand
8 working to go to 18 percent because the glass works better. This is used as a
9 flux to make the silica workable. Silica melts at 3200 Fahrenheit, and by
10 adding soda, you can it to melt at satisfactory, let's say, 2300 or 2400
11 Fahrenheit.

12 Now, the glass contains calcium as well. Calcium is also a flux. The
13 sodium oxide in that case is called a flux, and so the calcium is important,
14 however, for water resistance. I won't go into the technology of it, but the
15 sodium can go into the water on an atomic level, and the calcium will come in
16 and replace the two sodiums and makes a barrier layer only a molecule or two
17 thick, which prevents the further attack by water.

18 Now, all this technology is very well-known. Aluminae is quite
19 important in this, too, for stopping the vitrification and for slowing up the
20 rate of attack. For illustration, glasses have been removed from ships sunk
21 in the Aegean Sea a long time ago, 2,000 years, dating the wood of the ship,
22 and the articles sunk there in salt water having an alteration layer of only
23 about a half a millimeter or a millimeter thick in 2,000 years.

24 Now, by contrast, the boro-silicate glass that is considered to be the
25 standard acceptable for somebody will dissolve one millimeter in six years,
26 but in the glass industry, we know how to make glasses at least 100 or at
27 least a 1,000 times better than the Greeks did because we have higher
28 temperatures available and better chemistry. So there's no reason not to use
29 a very, very good glass.

30 The incentive for doing that is that if you make a very good glass, then
31 you can logically consider not using stainless steel containers, which are
32 frightfully expensive, and so you then can use what's called wrought iron or
33 you can use a product called Duriron which is an iron silicon alloy. It's

jam

1 used for plumbing for traps in plumbing and chemistry labs and things like
2 that. It's very resistant.

3 The point is that the silica that the glass is being made is intended to
4 have the maximum content of soda. So you have the least amount of glass. The
5 limit on the amount of soda you can put in is solubility. If you put in too
6 much soda, 30 or 33 percent soda, the glass becomes soluble. That can be
7 thwarted some by having lime and by aluminae. So it's not a precise line, but
8 there will be a line established as to how much you can have solubility.

9 For example, the rating for Savannah River in boro-silicate glass is one
10 gram dissolved per square meter per day, and that's what translates to one
11 millimeter every six years. Well, that's far too short if you can't rely on
12 that kind of a glass.

13 The maximum amount of soda you can put in is also controlled by whether
14 you have any boric oxide. The boric oxide and the soda work in a reciprocal
15 relationship. The more boric oxide you have, the less soda you can have, and
16 so you don't want any boric oxide. You want the maximum soda.

17 Now, we made glasses of that and we're making some more for the Hanford
18 people, and we've made some already out of Hanford sand. Now, the soda from
19 the tanks supplies what you need of flux, and the sand supplies what you need
20 of silica and alumina, and it's black. It's iron, which is very compatible
21 and useful in glass. So it's good to think of combining the soda nitrate
22 processing with contaminated soil, and that's what this is. We've got it
23 labeled "Hanford sand." It's actually just soil that was scooped up from the
24 roadside corresponding to the area, close to the 200 area, but it's from the
25 roadside, not on the fence side.

26 I'd like to stop on that and answer questions on that, and then I have
27 one very short presentation that will answer one of the earlier questions.
28 Are there any questions on the program? This program is going ahead. It is
29 already underway, and they're starting to order samples of glass.

30 MR. JIM: I have a question. You say that stainless steel is very
31 expensive, and the promotion of this glass would perhaps replace that. Was
32 there a consideration of recycling contaminated stainless steel for the inner
33 liner for these proposed duct alarm casts or iron casts of some type?

jam

1 MR. PENBERTHY: Yes. That is being considered to use contaminated
2 stainless steel. It's still expensive. You've still got to roll it, and it
3 is not an easy job to do. That would be a matter of economics. We have no
4 objection to the stainless steel if that proves to be more economic, but with
5 the high-grade glass, it is not necessary.

6 MR. McCALL: Sir, are you saying that we should be using this glass of
7 yours as opposed to this other glass or are you just here telling us what
8 they're doing? I don't know. I don't know the point of your presentation,
9 except that it's very interesting.

10 MR. PENBERTHY: The point of it is I am just giving you information on
11 what the program, the new program is at Hanford.

12 MR. McCALL: All right.

13 MR. PENBERTHY: It's no longer that high-level glass. That's out. It's
14 to empty the tanks, so they won't leak.

15 MR. McCALL: I understand that. What I don't understand is why we're
16 having the conversation about the change in the glass composition. What I
17 want to know is why you're here. Just so we know about glass or are you here
18 because you've got a glass process that you think is better than the glass
19 process they're using and you want us to endorse your process over theirs?

20 MR. PENBERTHY: I'm not asking you to endorse it. The facts can speak
21 for itself. I'm simply bringing you information on that one.

22 MR. McCALL: Okay.

23 MR. PENBERTHY: Let's go on to the slide here.

24 MR. McCALL: I get the drift.

25 MR. PENBERTHY: Did you have a question, Glen?

26 CO-CHAIR COSTLE: Go ahead. You said you had a second point you wanted
27 to make.

28 MR. PENBERTHY: No. I'll answer the questions on the glass now if you
29 have any more.

30 MR. SJOBLUM: Mr. Chairman, I just wanted to remind the Committee that
31 last December 8th, I believe it was, at Hanford there was a presentation about
32 the design of the tank waste system and the problems that we were confronting
33 at that point, and at that time, there was an initiation of effort with this

jam

1 gentlemen, and he has been brought into the process of trying to work on some
2 of the technical aspects. So I think that that has provided some useful input
3 into the Hanford problem.

4 MR. PENBERTHY: Now let's take the second topic here. This answers what
5 to do with the plutonium and spent fuel on the Hanford reservation, and that
6 would be to have a boring machine which would go into the side of Rattlesnake
7 Mountain at least 50 feet above the flood plain, so there's never any question
8 of water coming in from that end, and the tunnel goes in, like, 1,500 feet to
9 underneath the center of Rattlesnake Mountain. The mountain here is
10 truncated. Then the raised border would make a chimney.

11 Now, there's natural draft. You put in the fuel along that tunnel, and
12 it still has residual decay heat and heats the air, and the air gets hot and
13 goes up like any ordinary chimney. So it's ordinarily cooled.

14 This is simply a suggestion that you might be able to use because there
15 is concern about moving the plutonium and the spent fuel away from Hanford.
16 Where's going to go, for one thing? This is one place where it can be put.
17 One tunnel would take care of all of the plutonium that's still on the site at
18 Hanford.

19 The second slide is of the same system, but it shows a little more
20 elaborate in the -- would you raise it up, please? The diagram is what we
21 want. Raise it higher.

22 Now, this same idea can be used anywhere. You don't have to have a dry
23 mountain like Rattlesnake. You can put it in any of the mountains down in the
24 El Paso area. You can put them in the Appalachians, and in case you have a
25 wet mountain, you put in a water intercept tunnel, which has lateral collector
26 holes of two-inch diameter. They extent in sort of an upside-down umbrella to
27 catch the water that might to into the repository, and so then now you can
28 tell all of these nations except Belgium which I don't think has any mountain
29 at all, but you can tell the rest of them. They've got plenty of mountains.
30 Put in their own repository. The ceiling is done here with five 100-ton
31 blocks of concrete.

32 Now, all we want to do when we get it back to the United States is to
33 store it because nobody is going to recover that highly enriched fuel now.

jam

1 That process has been shut down. So just plug up the tunnel, leaving air
2 passages for cooling, but nobody is going to get in there. It's going to be
3 very tough.

4 At the far right, there shows some canisters of glass. These are
5 seven-ton-each canisters. So you have a lot better use of your canister
6 material if it's low level -- you can't do that at high level -- or spent fuel
7 brought in.

8 That's the end of this presentation.

9 CO-CHAIR COSTLE: A1?

10 CO-CHAIR ALM: I guess I wondered how does this scheme differ from the
11 one that's being proposed for Yucca Mountain.

12 MR. PENBERTHY: The Yucca Mountain is a very elaborate process. It's
13 already cost \$3.5 billion. We have quotations from the Robbins Company that
14 makes these boring machines, and they say they don't see how they can possibly
15 spend more than \$20 million on building a single tunnel with a raised bore.
16 That includes the machine. So there's a vast difference in price, and there's
17 a tremendous difference in time. The time for putting in a single ventilated
18 hole, a unitary hole, is so much shorter. You can have it in 18 months. They
19 got plenty of spare capacity in their machine shop to make machines.

20 CO-CHAIR COSTLE: Any other members care to address a question? Yes,
21 Jerry.

22 MR. CHRISTEAN: How much money did you say they have spent at Yucca
23 Mountain?

24 MR. PENBERTHY: I read from the newspaper \$3.5 billion.

25 MR. CHRISTEAN: That means they must have something done there?

26 MR. PENBERTHY: Wait a minute. You're talking about the Federal
27 Government here, man.

28 DR. FREUDENBURG: They produced a market for Wisconsin paper.

29 MR. CHRISTEAN: That facility is somewhere along the line, if everything
30 can get worked out. It's already in place, is it not?

31 MR. PENBERTHY: No. They have leveled the platform of probably the size
32 of two football fields, I think it will look like from the picture, and that's
33 a staging area at the foot of the mountain.

jam

1 Can anyone tell me whether they've actually sputtered in on the drill?

2 CO-CHAIR ALM: I'm not quite sure exactly how far on that. They're just
3 starting to get in, and then they would go down. The problem in Nevada is
4 simply that there's no approval by the State.

5 MR. BECHTEL: I could maybe clarify that. They've completed what they
6 call the starter tunnel, which is 200 feet long, which is going to be a
7 staging area for the tunnel boring machine. That's as far as they've gone,
8 this first tunnel length.

9 MR. PENBERTHY: The plan was to go in five miles, wasn't it, and then
10 turn the corner and then turn the corner again and the machine comes back out
11 in another mountain?

12 MR. BECHTEL: Yes. There's a north ramp and a south ramp.

13 MR. PENBERTHY: It's a 25-foot-diameter boring primary, and then there
14 are going to be lateral borings from that in which the fuel would actually be.
15 Is that right according to your end?

16 MR. BECHTEL: Yes, and the testing, the testing of the site
17 characterization of the rock.

18 MR. PENBERTHY: Yes. But there is no ventilation. They rely on the
19 thermal loading on the rock, and I think that's poor. What's the easiest way
20 to cool material? With air. If you try to cool it with rock, rock is a very
21 poor conductor. So they have to think in terms of a vapor saturated system
22 which is corrosive to many metals. It's just better to cool with air, and, of
23 course, all your fuel is canned very well, the triple wells and the seals and
24 the ends of seamless steel tubing.

25 CO-CHAIR COSTLE: Does any other member of the Committee have a ques-
26 tion?

27 Dr. Donath?

28 DR. DONATH: Well, I found you're remarks very interesting with regard
29 to the chemistry of glass, but I'm a little bit bothered by the
30 generalizations and oversimplifications with regard to the isolation of waste.

31 I could spend quite a few minutes on a discourse here, but I'll try to
32 simplify it to the very basic elements. When one is concerned with isolating
33 waste, there are basically three ways of doing that. One is to have a waste

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1 form that is inert, which is what you've been addressing with regard to the
2 glass. The second is not to have a transport medium, and that will either be
3 some human activity, some natural transport mechanism, like a volcano, or it
4 will be groundwater, and it's the latter because we can eliminate to the other
5 primary transport processes. We concentrate on the groundwater. The third is
6 if you should not have a waste form that keeps the waste from being dissolved
7 and transported in groundwater, then you look for ways of absorbing that. So
8 the geologic medium is a very important factor.

9 Certainly, as with any waste program, you need to address the stability
10 of waste form in terms of the geologic environment in which it's being placed,
11 and you're addressing geologic environments here.

12 You might not be aware that in Washington, for example, in Hanford, that
13 in the recent geologic past that the entire area was under water, and the
14 so-called "scablands" resulted because of the damming of water by the glaciers
15 which, when they melted, resulted in significant flooding and erosion. So the
16 assumption that the tunnel is 50 feet above the river is not a very good
17 assumption because I think there's not a geoscientist who would not agree that
18 within -- well, they might disagree about whether there is 10,000 years or
19 20,000 years, but certainly in that period of time, there will be glaciers
20 again in that part of this continent.

21 So I think you have to look at the total picture beyond just the waste
22 form and consider also the ability of water or other transport mechanisms, and
23 in some geologic environments, there may be concerns with regard to human
24 activities and its interaction of humans with that environment as well.

25 MR. PENBERTHY: Yes. There is a problem of another ice age. I don't
26 plan to worry about it today, but it's a long way off, and if there's ice of
27 that magnitude to form another Lake Bonneville which will burst through, then
28 there aren't going to be many people around. The dinosaur died out.

29 DR. DONATH: There may be a lot of Canadians down in this country.

30 MR. PENBERTHY: Floating on rafts.

31 DR. DONATH: The point was only that one has to consider the changes
32 that can take place, the transport mechanisms, and that some individuals are
33 concerned about time periods well beyond our own generation.

jam

1 MR. PENBERTHY: There is one way we have moved to answer that, and that
2 is to use ordinary plate glass, quarter-of-an-inch thick, to clad castings and
3 molten glass into a lined container of glass. We did that. We cast or
4 simulated West Valley glass into pickle jars. Pickle jars were preheated. So
5 there was no thermal shock. We filled up the pickle jar with that glass, put
6 crushed bottle glass on top, and fused it down with a radiant element, and
7 there we had the radioactive glass simulated and totally encased in ordinary
8 glass, and the ordinary glass, we'll give you a certificate. It's good for
9 10,000 years.

10 CO-CHAIR COSTLE: Thank you, Mr. Penberthy.

11 MR. PENBERTHY: Thank you.

12 CO-CHAIR COSTLE: It is now 6:30. Thank you.

13 [Whereupon, at 6:30 p.m., the meeting was recessed, to reconvene
14 tomorrow, Wednesday, December 15, 1993, at 8 a.m.]

[8:05 am]

BEFORE THE UNITED STATES DEPARTMENT OF ENERGY
ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT
ADVISORY COMMITTEE

CO-CHAIR ALM: I think we are ready to go. The gavel has been handed to a new generation of Americans.

Willis, why don't you and Mark Silverman begin the presentation under challenges in transition, current integrated plan for Rocky Flats.

MR. BIXBY: As the agenda says, this is facility transition challenges, and it is that part of the agenda which, if I can have a liberty here, is a combination of the Price is Right, Let's Make a Deal, and Jeopardy.

If Bob Barker was here today, you know, the actual retail value of this particular facility would be undefinable. But from our perspective, it is not the actual retail value that we are worried about, because we know it is essentially zero.

What we are really concerned about is what is the appropriate surveillance and maintenance costs for a facility like this, but, more importantly, what do we need to do in fact to get rid of this facility.

As Monty Hall would say, you know, on Let's Make a Deal, what is behind door number one. From our perspective, you know, that is another challenge that we have, is to find out in many of these facilities what in fact is behind door number one or door number two, in terms of the quantities of materials that may be in there. Because what they pose at least from an EM perspective is what is the "jeopardy" that EM takes on in terms of not only the financial liability, but also the safety and health liability.

[Slide.]

This particular picture was taken a little over a year ago as part of an effort that we had to go out and do a quick look at about 170 facilities that the Office of Defense Programs wanted to "make a deal on," and this particular facility at Los Alamos, when the team showed up, they opted not to go inside this building.

[Slide.]

We have another picture that shows you what the inside of this building looks like, and the fact of the matter is that they said, given the conditions that existed in that building, they opted not to go in. And those

1 conditions really were the fact that this building had been used as part of
2 the Manhattan Project and, in fact, had high explosives in the wooden floor
3 boards in that building, suspected.

4 Now, this was just a small sample of 170 buildings. In just a
5 couple of minutes, my deputy Larry Weiner will talk to you about an effort
6 that we have ongoing to find out how big this problem really is for the
7 Department.

8 I would like to go and touch a little bit on the Pacman that Jim
9 Werner talked about yesterday, and talk about this program, which is right now
10 about one-sixth of the EM budget, and I will talk a little bit about that area
11 that I have checked off. That is an area that really is reflective of
12 facilities that are operating, that have Federal FTE's associated with them,
13 and generally the liability is understood, and then we will talk a little bit
14 about that area of the pie chart here that is the question mark, and that is
15 how many more of those LANL buildings are out there for EM to have to deal
16 with.

17 [Slide.]

18 As you can see, I have tried to depict here the increase in the EM
19 program and tried to put it in the right perspective, and really, if you take
20 a look at Tom's budget for fiscal year 1994, that budget has about \$450
21 million of new scope that has come into his program from the other secretarial
22 officers.

23 Now, this program was conceived to provide, if you will, a cushion
24 -- maybe that is not the right word -- but a buffer from the Environmental
25 Restoration Program and the Waste Management Program from just this kind of
26 new scope that is tending to want to flood into the Environmental Management
27 Program, as the Department goes through its metamorphosis, as its mission
28 changes within the Department.

29 One of the phenomena you see within the Department is when the
30 programs go down, the budget goes down, and they say give it to EM. Our job
31 is to say not, now. What we want to try and do is to make sure that we go
32 through a discipline process before we in fact take these facilities on.

33 So I will be talking about this part of the pie which, as I said,
34 has prior year funding from it, and I will talk about what that means. It has
35 Federal FTE's. The question is going to be are there sufficient FTE's to be

1 able to manage these facilities, and then the liability is generally
2 understood, given the fact that we have been through a rather intensive effort
3 over the last three and a half years through the Tiger Team process, of which
4 Larry Weiner, my deputy, was in fact the leader of that activity.

5 Just to refresh you that we are confronted with a situation within
6 the Department in which we have an expanding Environmental Management Program,
7 an expanding facility transition program, and an era of declining budgets.
8 So, needless to say, that creates a little tension within the Department in
9 terms of how do we accomplish our mission with the tight competition for
10 resources.

11 [Slide.]

12 If I go back to this pie that I had indicated that I had checked
13 off, that pie really had its origin from two places. An \$800 million program
14 doesn't just materialize within the Department overnight. It really came from
15 two sources. One source came from Jill Lytle's program, the waste management
16 program, and that really is depicted in the areas here in green, with the
17 exception of Oak Ridge, and I will talk about that in just a minute.

18 But, in essence, Jill Lytle had, when she received or the EM
19 received the Richland site, about \$300 million worth of activities there that
20 were not really waste management, that were not really environmental
21 restoration, but were in this never-never land. They were facilities such as
22 Purex that had been operating, that needed to be shut down. There was the
23 plutonium finishing plant, which needs to be cleaned out. There is the fast
24 flux test facility, which was an operating facility, which has a budget of
25 about \$60 million, which is in the EM budget -- and we are still trying to
26 sort out why we have that in our budget -- and the landlord programs.

27 When we talk about the landlord, we are talking about those
28 projects, those projects that link the site together. One of the challenges
29 that we have is the fact that the Department, and EM in particular, is going
30 through this change, and it is dealing with an infrastructure that is 40 years
31 old. Well, when you add on another 30 years to this program to clean it up,
32 do we have the right infrastructure to deal with the EM programs at places
33 like Richland and at Idaho.

34 Now, the area in yellow -- and I have tried to depict these in the
35 right proportions with respect to the overall budget for EM-60 -- the yellow

1 reflects that monies and targets which were transferred from the Office of
2 Defense Programs into EM, for Rocky Flats and for the Idaho chemical
3 processing facility. Our challenge, bringing those into EM, is to get those
4 facilities shut down and to get the mortgage reduced at those facilities, so
5 we can free up some of these dollars to do clean-up work.

6 Let me talk a little bit about the receipt of these facilities.
7 Just as you would go to buy a new house, one of the things we want to make
8 sure of before we take these facilities on is what in fact is it that we are
9 about ready to take on.

10 At Purex, which is a facility that Jill had, at Rocky Flats and at
11 Oak Ridge, what we have attempted to do is to put together a group of
12 independent technical experts with experience from the commercial world and
13 bring those folks inside the Department, and say let me understand the plan
14 you have to shut these facilities down, and is in fact that plan going to get
15 you to the lowest surveillance and maintenance cost as quickly as possible.

16 I call that point ALAEA, which means As Low As Economically
17 Achievable, and I will talk about that in just a couple of minutes with
18 respect to the Purex facility and what we are attempting to do with that
19 facility as a prototype for the Department. But we go and get folks from both
20 inside the Department, as well as the commercial sector, to come in and give
21 these facilities an objective view, to make sure that we are focused and have
22 our eye set on getting the cost of these facilities down.

23 So what am I talking about in specifics? Let me go to Richland
24 and talk about Purex, which is a facility I believe that you had seen, I guess
25 it was in December, last December. Here is a facility that is similar to the
26 F and H canyons that we are going to have at Savannah River, which people want
27 to give to EM, and we say no, not yet.

28 What we are attempting to do here, if you take a look at what the
29 funding profile for this facility was before the red team went in -- this is
30 what it looks like afterwards, but the funding profile before the red team
31 went in was, oh, it's about \$60 to \$70 million for 10 years. We said no.
32 When we got done, we tried to reduce the area under that curve from about \$700
33 million, to try to get it down to about \$250 million, and even in my
34 perspective, that is still high, and that is what have we got to do in order
35 to capture, if you will, this difference here. That is what we are attempting

1 to do. What we are attempting to focus on in this program is to get these
2 facilities from this condition at about \$50 million a year, or \$60 million a
3 year down to zero as quickly as we can, to free up those resources to apply
4 them to other activities.

5 One would say, gee, why can't you just go away and turn the lights
6 out? Well, there is a lot of special nuclear material, there is a lot of
7 material in there that requires and has required pretty stringent controls on
8 it in terms of safeguards and security, as well as the kinds of materials that
9 you need to control with respect to the environment.

10 So what we are trying to do here at Purex is to go through in a
11 very disciplined project management approach, get out of the operating
12 environment and get into the project management approach, to lay out all those
13 activities that are necessary in order to get this thing shut down as quickly
14 as possible, and that will define for you the "what" you need to do, and then
15 we need to superimpose on that the requirements that come from the Defense
16 Board and the States to make sure that we know how we are going to go down
17 this, what are the appropriate codes and standards to be able to shut these
18 facilities down?

19 Yes, Tim?

20 MR. CONNOR: In what sense is it a prototype?

21 MR. BIXBY: The sense in terms from what are the steps that we
22 need to follow, how do we engage the stakeholders in this process, what are
23 the standards and requirements that we impose, as we start from what was an
24 operating condition and bringing it down to what I would call or what some
25 people have called "a cheap to keep while it's asleep State."

26 If you take a look at this portion of the funding profile, what
27 this really is -- in fact, if we look, and this is your package, you know, the
28 detail schedule associated with what you need to do in order to be able to get
29 this facility to the point where you have a minimum surveillance and
30 maintenance condition, what we are attempting to do is to make sure that we
31 have the process right that people need to follow to be able to take these
32 facilities and bring them down to a minimum surveillance and maintenance
33 point.

34 If you go to the commercial industry in the nuclear power
35 industry, what you confront is they will have the process by which they will

1 go through the shutdown of a commercial facility. We are trying to do the
2 same thing and develop the template, if you will, for bringing these
3 facilities, like Purex, like ICPP, eventually F and H Canyons, down in the
4 discipline process, making sure that, as we do that, we have the right
5 standards that, from a Defense Board viewpoint, we will be able to follow how
6 we are actually going to be able to do these activities in a disciplined
7 process.

8 The challenge here is that we have got a project management plan
9 that defines what needs to be done, that identifies what the durations and
10 what the costs are that are necessary to make this shutdown, that we track
11 those activities, to make sure that we are following down this path.

12 We are trying to use this process, in essence, as a model for a
13 building, and then take that process and go to a site like Rocky Flats, which
14 we have just received responsibility for, and Mark Silverman, who is the
15 manager, will be up after me in just a few minutes, to talk about the
16 challenges that he sees there with respect to how do we take a site like Rocky
17 Flats that was moving in a production direction and get that vector turned
18 around and move it in an environmental direction.

19 I put this in your package to say that there it is a combination
20 of not only taking the buildings down -- and what I mean by taking the
21 buildings down, we are a ways away of actually bringing these buildings to the
22 ground. What I talk about is taking the buildings and putting them to a
23 minimum surveillance and maintenance condition, but doing that in the context
24 of how do I deal with making sure that the buildings that I shut down in fact
25 are not needed to deal with the processing of material, to put it in long-term
26 safe storage.

27 What are we talking about at Rocky Flats? Well, as just recently
28 announced by the Secretary -- and Mark corrected me, I said there was 12.2,
29 there is 12.9 metric tons of plutonium that are spread out across that map
30 that you just saw in seven major buildings in over 7,000 containers, and the
31 challenge is to get all that material consolidated into one location in
32 Building 371. And why do we want to do that?

33 Well, if you have been to Rocky Flats, you will know that it takes
34 you about four times the time to get in as it does the time to actually go see
35 anything inside that facility. And the challenges there is to get those

1 materials consolidated, get those safeguards and security requirements removed
2 from those facilities, such that we can get in and start doing some productive
3 work.

4 [Slide.]

5 Mark and I were commenting, we had the Defense Board out about a
6 month ago and we wanted to go into 371, this building right here, which has
7 the majority of the material. It literally took us 80 percent of the time to
8 get through the security requirements, to get through the suit-up
9 requirements, and we spent 5 percent of our time actually going to the place
10 that we wanted to see, and he and I just looked at each other and said, you
11 now, something has got to change.

12 He and I jokingly say -- you know, Tom is talking a lot about
13 performance metrics -- I jokingly say to Mark, I said one of your performance
14 metrics is how many linear feet of fence are going to come down at Rocky Flat,
15 so we can get people in to do real work.

16 So that is truly one of the challenges, but really much broader
17 than that, inherent in this is a condition in which, in 1989, people had this
18 plutonium material, 3.1 metric tons of plutonium and 100 metric tons of bulk
19 ready to go recover it, to get the material out. Those ground rules have
20 changed. Our challenge now is to get all of those residues that are at that
21 site, to get those in the right form for long-term storage. Because what we
22 are going to be confronted with is where are we going to actually put this
23 material in the long-term, and that is part of a much broader issue that the
24 Department and this board needs to be apprised of, is this massive quantity of
25 plutonium that we have and where is its appropriate location.

26 We have tried to take a very strong position in EM, at least from
27 my perspective, and that is, wait a minute, you know, we don't need to become
28 the world's warehouse master for this plutonium, that it ought to remain with
29 the other programs. It is not EM's mission.

30 When it comes down to residues, when it comes down to that
31 material that has the requisite constituents in it and it has the plutonium in
32 it, then, yes, that's probably an appropriate thing for EM to be able to take
33 on and go manage to get in the final waste form.

34 But there are, as I said, 12.9 metric tons of plutonium material
35 there, and about 3.1 metric tons of that material is in residues, and the

1 balance is in material that really is the responsibility and is the oversight
2 of the Office of Defense Programs.

3 And when we take over the site, what we have tried to do is to
4 bill them for having to watch their material, just like we are billing them at
5 Richland to watch their material. And if they continue to pay the bill, then
6 they will say where can we put this material, because we really don't need to
7 be the protectors or the owners of that material. Mark will talk a little bit
8 more about that.

9 Let me turn briefly to the unknown, and that is a situation in
10 which there is likely to be limited funding with those facilities, very
11 minimal FTEs that exist in those facilities, and the liability is generally
12 unknown.

13 [Slide.]

14 If you think that LANL building was only one example, well, here
15 is another example. This is an old tritium facility down at Savannah River
16 that was identified. That one, we were not clear in terms of what in fact was
17 inside that building. Part of our effort is to identify and put together the
18 program that would be necessary to go in and characterize that building, so we
19 know in fact what to do with it.

20 I would like at this time, if I could, to have my deputy Larry
21 Weiner come up and really talk about the efforts to get a handle on how many
22 more are out there. We have tried to start over the last four or five months,
23 with the help of Tom and the Secretary, to really go out and ask the field
24 sites, given the universe of facilities that are out there, what are those
25 facilities that you would likely to give us over the next 5 years.

26 Because what we are being confronted with is a facility today, a
27 facility tomorrow, a couple here and a couple there, and we need to try to get
28 our arms around this program and understand what is that universe, such that
29 we can figure out what is the appropriate way to meter those things into the
30 EM program, and what time sequence do we need to bring those into the program,
31 and to do that based upon what the risk is.

32 So I will turn it over to Larry, and then I will come back and I
33 have got one more slide that I would like to close out with before Mark
34 Silverman gets up.

35 MR. WEINER: How many, how soon and how much is the question, as

1 Willis was saying. And we asked ourselves that question back in January of
2 1991, when Leo Duffy said he had an opportunity for us to create this Office
3 of Facility Transition and Management, because he had the view that there were
4 a lot of facilities that would be coming his way.

5 We had two attempts to get that information through the program
6 offices. Back in September of 1992 and again in March of 1993, we asked all
7 the line programs to tell us what is or will be surplus, and the information
8 we got back was woefully inadequate. It was incomplete and inaccurate.

9 There are no existing data systems in the Department that (1) tell
10 us what we own that are valid information or accurate information, complete
11 information, or (2) of what we own, what surplus. After Tom Grumbly came on
12 board and we got the message through that there is as huge liability out there
13 that remains undefined in the way of surplus facilities, he and the Secretary
14 initiated what is called the surplus facility inventory and assessment
15 project, which I thought was going to be a part-time job and has turned into a
16 full-time one, and is a massive undertaking for the Department right now. And
17 I will try to whip through this in close to 5 minutes.

18 Basically, this thing was kicked off formally October 4th by the
19 Secretary in a memo to all the field elements, and that is how we decided to
20 work it. Instead of going through the program offices, we were going to take
21 it right to the field and work with the Ops managers, because they are the
22 ones that own the facilities right now.

23 The first bullet defined the magnitude of the problem out there in
24 terms of getting an accurate inventory of not only what is surplus, but before
25 you can do that, we thought you had better know what you own, so that you can
26 figure out, of what you own, do you still need it. That was due December 1,
27 1993.

28 In fact, a lot of data came in by December 1. That data has not
29 been concurred on by the program offices in Washington. It is a two-part
30 effort. The field puts it together based on what they know in terms of what
31 is or will be surplus, and then the program offices have to confirm that that
32 jibes with what their budget is, what their priorities are, et cetera. So we
33 are still waiting for the concurrences, but I will talk a little bit about the
34 unvalidated data in a second.

35 Second, by March 31st -- this is time for the FY 1996 budget --

1 what kind of resources do we need for these facilities that are surplus? We
2 already know that these assets, as they are so-called, do not come with a
3 whole lot of money or FTEs. Part of this effort is to figure out what we need
4 initially to take care of them.

5 Now, it is only going to be the tip of the iceberg. We are
6 talking about just finding out what kind of surveillance and maintenance money
7 and characterization dollars we are going to need. Second, we need to develop
8 a defensible process to manage all of these. There are far more surplus
9 facilities out there than there are dollars to manage. So what we want to do
10 is put them in a ranking, based on threats. We are using the environment,
11 safety and health 5-year plan threat matrix to help us rank all of the assets,
12 so that, with limited resources, we are putting our money where the threats
13 are the worst.

14 Finally, it supports EM's ongoing baseline effort and the
15 identification of urgent risks. Identifying urgent risks within EM is already
16 happening, and Tom wants to know what are the urgent risks that will be coming
17 his way.

18 Let me skip a whole bunch of these, so I can get this kind of
19 under control here. This just lays out the phases of the project, scope and
20 schedule. We are starting out with a complex-wide facility inventory, again
21 what do we own, and it has been a real effort for the field, because I guess
22 over the last 40 or 50 years we have lost track of a lot of the facilities
23 that we own. In fact, some of them don't even have owners that will
24 acknowledge that they are owners of the facilities and they are sitting out
25 there rotting. We call those the orphans.

26 Basically, once we figure out what we own, apply a discipline
27 process to figure out if we still need it. We have excluded some sites and
28 some structures. I didn't need utility poles, I didn't need roads and bridges
29 in this thing. I was looking for things that would present liability in the
30 way of contamination. The only sites we excluded were the Power Marketing
31 Administration sites, since they are under a whole different budget structure
32 than the rest of the Department.

33 [Slide.]

34 After we figured out what we own, we wanted them to group all of
35 the assets into five different groups, and the way the groups work is Group I

1 is surplus right now and it is contaminated. Group II are orphans or
2 abandoned facilities that should be declared surplus, but nobody has taken the
3 time to do that. Group III would be those assets that are going to be
4 declared surplus in the next 5 years, again contaminated facilities. Those
5 I's, II's and III's represent a liability for the Department in the way of
6 facilities that are not being adequately taken care of.

7 Group IV is a watch list. We don't want to see another Fernald or
8 another K-25 happen, which basically is resources get drained off, while we
9 mess around with what's the mission of this facility, and then a couple of
10 years later we finally terminate it and there are no resources left to take
11 care of the facility.

12 Fernald, basically, it looked like they had a fire drill and they
13 left, they turned out the lights and locked the doors, and a couple years
14 later EM walks in and you've got the uranium derbies right where they had been
15 cast on the day they shut down, and we end up taking care of the defense
16 materials and it increases exponentially the costs of the clean-up.

17 So what we wanted to do was develop an ability to track some of
18 these facilities whose budget and/or mission is declining, and we defined it
19 so that we try to take the guesswork out of it and put them on a watch list,
20 so that we know to keep an eye on those, just in case they do start to go
21 down.

22 Group V is everything else, and it contains all the operating
23 facilities, and in order to make sure we had a comprehensive inventory, all
24 the EM facilities are in Group V, as well. In addition, there is a little
25 nuance here. This is surplus contaminated. Group V contains surplus
26 facilities that are clean or have a kind of contamination that EM doesn't deal
27 with, non-processed-related contamination like asbestos insulation, lead
28 paint, PCB transformers. EM, as a rule, does not take those kind of
29 facilities for D&D, so they all end up here, as well. And that sub-group in
30 Group V, plus I, II and III, add up to the total surplus facility universe.

31 In the red, which is Phase 2 that we are now entering, we are
32 probably going to drop down. Our inventory right now includes about 21,000
33 assets, which is kind of disturbing, since we eliminated about 7,000 to 10,000
34 assets that we didn't think would have contamination. That means our real
35 property inventory system, which is the system we use to track all the real

1 property in the Department, it contains about 22,000 items in it right now.
2 With our 21,000 plus another 10,000 that we eliminated, our tracking system
3 for real property is off by a huge number.

4 Was there a question over here?

5 MR. JIM: What is your budget?

6 MR. WEINER: I am out of EM-60. We have been doing this on a
7 fairly small budget. It is mostly a DOE effort working with the DOE people in
8 the field. The Phase 1 effort costs us about \$2.3 million.

9 MR. JIM: What I am trying to say is how big is this problem.

10 MR. WEINER: That is what we are trying to figure out. We don't
11 know how big it is yet. A lot of these facilities aren't receiving --

12 MR. JIM: You don't even have an approximation?

13 MR. WEINER: No. I will tell you what, though, that is one of the
14 reasons we are doing it. Back in 1989, we put out numbers on what we thought
15 the problem was. What was the first one, like -- well, we never quite hit it
16 right. We were always estimating how many surplus facilities were out there
17 and how much it would cost to clean them up.

18 So Phase 2 in the red, what we are going to do is take the subset
19 of contaminated surplus facilities, do a baseline assessment of those
20 facilities, which is going to tell us, number one, what do you know about the
21 facility and what don't you know. It is not going to require sampling or
22 anything like that. We are just trying to get a quick evaluation of what
23 those facilities are like. And what you know in this case is as important as
24 what you don't know, because we want to come up with some estimates for
25 characterizing them for the unknowns.

26 So we are going to come up with what we call first-order cost
27 estimates for surveillance and maintenance and characterization. After we
28 have that information, we are going to run them through the threat matrix and
29 rank them. The low-ranking facilities will end up in Phase 3 of this project,
30 while the high-ranking ones will remain in Phase 2, and on the high-rankers,
31 we will develop budget quality information to get into the FY 1996 budget.
32 And Phase 3 would be what we don't take care of in Phase 2.

33 In the interest of time, I am going to go ahead and put up some
34 pie charts. This is preliminary data. It hasn't been validated. It probably
35 shouldn't be used outside the room. I am only doing it to show you what we

1 have so far. Let me say that our exception reports are pretty thick right
2 now. We have 18,000 blanks in the data system right now that we are trying to
3 get fixed.

4 [Slide.]

5 But just to show you how things are looking from a complex-wide
6 standpoint, the ones we are interested in are predominantly one, two, and
7 three, and out of a total of 21,000, you are looking right now at hard data
8 that has come in, and we still are missing just a little bit of data. You are
9 looking at about 1,200 or 1,300 facilities that are or will be surplus. It is
10 about 6 percent of the population there.

11 We think that number is a little bit low, and the reason is Group
12 III, which, if you remember, is what will be surplus in the next 5 years. The
13 problem is people may have a parochial interest out there to not declare
14 something surplus, and it is a real question of who they asked, you know, do
15 you still need this facility. If they ask people who work in those
16 facilities, the first thing they are going to say is yes, I am working on the
17 most important thing in the whole world and my place will never be surplus.
18 What we have got to do is now work real hard to make sure that the right
19 people were asked the question, because Group III is looking a little thin
20 right now.

21 [Slide.]

22 This just shows the breakout of all the assets by owner and who
23 the winners are. Defense Programs, it is no surprise, they own about half of
24 the assets in the Department, and I will show you in a second here that that
25 number of 10,644 is going to drop by about 1,000 over the next 5 years, and
26 EM, with 26 percent right now, that number will probably go up by 1,000 just
27 from DP alone, and then another couple hundred from the other program offices.

28 I apologize for the acronyms, in case you are not familiar with
29 all of these, but all of these are line programs, Defense Programs, Energy
30 Efficiency, Nuclear Energy, the new Office of Lab Management. Fossil Energy
31 is in here, which we don't really take their facilities yet, although we are
32 talking with them now about picking up some of their sites, and Energy
33 Research.

34 [Slide.]

35 Now, this is a better depiction of where the surplus facilities

1 are. Again, I am not going to stand behind the numbers, and if you use them,
2 you use them at your own risk. We have put out too many bad ones, and I don't
3 want to do that right now. What I will say, on a relative basis, this is
4 right.

5 You are going to end up with about 85 percent of your surplus
6 facilities at four sites, Albuquerque, Nevada, Savannah River and Oak Ridge.
7 Most of those are DP facilities, and, of course, DP's budget is the one that
8 has been hit the hardest and, as a result of that, there isn't going to be a
9 whole lot of money associated with these facilities when it comes time to take
10 care of them.

11 [Slide.]

12 This is going to be a real important one from an EM-60 facility
13 transition planning standpoint. Right now, we think this data is not that
14 good. But what we wanted to know is what is coming to EM-60 over time. These
15 would be the Group III facilities, because we asked over the 5-year period
16 when will they be declared surplus. That enables us to start planning on what
17 is coming.

18 What we see here is that the majority of the facilities, they
19 didn't put an end date. There is a lot of uncertainty out there, a lot of
20 unknowns as to when things are becoming surplus, which is a big part of the
21 problem. And it makes it absolutely impossible to do any planning or
22 budgeting, without good information over time. Basically, what we will have
23 is what is coming in 1996. We should have a good handle on that from the
24 Group I, which is surplus now. But we have got to work real hard to get thing
25 straightened out, so we can eliminate the unknowns and the uncertainty.

26 I could stop at this point, if you would like, and we could move
27 on.

28 CO-CHAIR ALM: Our next speaker isn't here yet, so why don't you
29 go ahead.

30 MR. WEINER: Excellent.

31 CO-CHAIR COSTLE: I think we might have some questions.

32 CO-CHAIR ALM: Then we ought to stop.

33 MR. WEINER: That is what I thought.

34 CO-CHAIR COSTLE: Are there any questions so far?

35 [No response.]

1 MR. BIXBY: We will try and wrap up here, Larry and I both. With
2 this question mark, there is likely to be new scope for EM in a tight fiscal
3 environment, which we talked about in terms of declining budgets, the extent
4 to which Environmental Management should really assume the responsibilities
5 for these facilities and the extent to which the operating programs, in
6 essence, shut these down, so that by the time they get over here, we have got
7 limited work to do on these facilities, and then are there sufficient Federal
8 resources to manage this new scope.

9 These are the kinds of questions and challenges that we are going
10 to be confronted with, as we go through this inventory assessment. We want to
11 get out of the nickels and dimes and get into what are the right quantities to
12 come in and when, so that we can do some legitimate logical budgeting for
13 these facilities.

14 With that, I would like to now turn it over to the newest member
15 in the EM family, which is Mark Silverman, who has moved from Savannah River
16 to Colorado, to talk about the challenges that confront him at Rocky Flats,
17 and taking it from a Defense Programs mission to an EM mission.

18 Mark?

19 MR. SILVERMAN: One of the questions I was asked when I got to
20 Rocky Flats is why are we sending in a bomb builder down to Rocky Flats to
21 clean it up in an era of change. I just want to make a point that I have not
22 been a bomb builder my whole life, only for the last 4 years or so. I
23 actually served my Federal career with the Environmental Protection Agency
24 when it was first created. Having gotten that plug out of the way and tried
25 to establish some rapport, let me make a couple of other points.

26 Willis talked about the reasons for consolidation of Building 371.
27 There are a number of other reasons, including it would be safe and more
28 secure to put it all in one building, but also if we could get into one
29 building, we could reduce our annual security and operating and maintenance
30 costs by about \$30 million a year. So if that weren't enough incentive, I
31 think we have plenty of other incentives.

32 Well, this is my 8th week on the job and there has been a lot of
33 change in those first 8 weeks, and what I really would like to talk to you
34 about are some of those changes, such as we are tearing down fences, both
35 literally and figuratively. It used to be that if you wanted to see the

1 manager, you had to go through three guard posts and be escorted, and now you
2 only have to go through one guard post and you don't even have to be escorted.

3 We are opening the site up in other ways, too. For example, we
4 just had our holiday party for the first time ever, and we invited the
5 children and the families to come into the site. As they walked the children
6 around the site, the rest of the employees of EG&G were looking like they were
7 martians or something, because we have never allowed children on the site, but
8 we had our kids in and they were able to go to mom and dad's work stations and
9 see what they have been doing for the last 20 or 30 years and take out some
10 mystery.

11 It has some other practical applications. We also have badged now
12 our Citizens Advisory Board, we just formed the board. We had them on their
13 first tour and we badged them, and the benefit of that is, for example, when I
14 am working on a Saturday morning, Ginger Schwartz, a member of the CAB,
15 dropped in to see me without any prior meeting.

16 So that again is part of the open door policy that we have
17 established in the 8 weeks I have been there, and not only the citizens can
18 drop in and see me, but any of the plant employees. And a lot of my time, for
19 better or worse, has been spent meeting with members of the unions. In fact,
20 I have spent more time with EG&G employees and Wackenhut employees than with
21 DOE employees. I am not sure it is simply a question of numbers, or whether
22 different issues there. There may be some root causes. So we are opening up
23 the site.

24 We have increased our focus on safety. In fact, I keep saying, in
25 order to gain the trust and credibility of all our stakeholders through
26 performance, the first thing is going to be on safety, the second is going to
27 be environmental protection stewardship, and the third thing then is operating
28 like a successful -- emphasis on the word successful -- business.

29 In terms of safety, the approach that we are taking in these last
30 8 weeks is, if there is an issue of safety, that is, if a team outside experts
31 like from the DNFSB consultants come in and they think there may be a problem
32 with a bulging can, which it turns out to be the can was designed to have a
33 bulge in it, but they thought there might be a problem, but the approach we
34 took is, okay, let's act as if it is a real problem until we can get other
35 experts in here and lay this issue to rest.

1 So we will err on the side of safety, rather than trying to
2 convince and argue with people whether it is or isn't safe. The issue I think
3 in many cases is one of perceptions, and if we deal with the perceptions by
4 talking to them about how we are going to deal with these issues and act like
5 it is as real issue, then I believe we can get past some of the concerns.

6 We have been dealing with beryllium issues and portal alarms and
7 other safety concerns raised by the employees. In total quality management,
8 we are also dealing with the Sierra Club lawsuit and we are trying to
9 renegotiate an interagency agreement between the Department of Health, EPA and
10 the Department of Energy. I called it renegotiation, but in due deference to
11 certain sensitivities, we are not renegotiating, we are looking at a way to
12 improve the existing interagency agreement, because when that first agreement
13 was written 3 years ago, we were in a production mission, as opposed to a
14 clean-up mission.

15 So some of the issues of the building facilities were excluded at
16 that time, like the sources. So we said don't it make sense to go back and
17 first clean up the source, before you clean up the earth, because otherwise
18 what you do is create a perpetual motion clean-up machine. So both CDH and
19 EPA have agreed that it probably made sense, as have our citizen groups, to go
20 back and look at that.

21 We are also changing the name. That is, we have started a process
22 to see if we should change the name. Some people would say that Rocky Flats
23 Plant has some baggage associated with it. I think the word "plant" all by
24 itself suggests production, and we are saying we are not in a production mode,
25 and some citizens don't even believe us when we say we are not in a production
26 mode.

27 So we just opened up the doors and said to all our stakeholders
28 what should the name be? We have gotten some real wild names, some humorous,
29 some tongue in cheek, some very negative and some very positive, and even some
30 of the employees saying don't change it at all, we are proud of having worked
31 here for the last 30 years. We are going through a process early in January
32 and we will float a name up to Tom Grumbly and the Secretary.

33 But the most important change I think that we have made is we are
34 really trying to ensure that we have meaningful involvement of all our
35 stakeholders, and I will talk a little bit about that, too. I wasn't allowed

1 or told I could talk about those things, so I will talk to you about strategic
2 planning.

3
4 Our planning background: Headquarters developed the waste
5 management roadmap back in September 1990. This roadmap was expanded into
6 waste streams roadmaps. In October 1991, we were selected by Headquarters to
7 develop the first integrated roadmap in 1992, issued our first mission
8 strategic objectives in December 1992, and EG&G issued their strategic plan in
9 October 1993, and I will talk more about --

10 DR. FREUDENBURG: What is a roadmap?

11 MR. SILVERMAN: What's a roadmap? A roadmap is, as it implies,
12 how do you get from here to there, with all the detours and potholes that are
13 in the way.

14 DR. FREUDENBURG: It's like a plan?

15 MR. SILVERMAN: It's like a plan, yes, but the roadmap is only
16 part of a plan. By the way, we have copies of these handouts. I think Tim
17 had some copies.

18 The case I obviously don't have to tell you all about, with the
19 era of change, but here are just some of the highlights, but one of them is to
20 transfer 5 plutonium buildings in January, and we translated the landlord in
21 1993. We received the independent technical review reports in 1993.

22 One of the things, in reading that over last night on the plane
23 coming in, I picked up on something I had missed in my first reading. It said
24 one of the things we needed to do was to elevate the planning function into
25 the manager's office. Well, the first week I was there, I realized that our
26 integrated planning effort wasn't going as well as most of our stakeholders
27 had expected, so I created a new Office of Planning and stole Ann Smith from
28 Willis to come down and head up that Office of Planning down there.

29 That is another thing I haven't talked about and won't talk about,
30 because I don't have time, is my reorganization, how I am flattening the
31 organization, eliminating layers of management. So I won't tell you about
32 those things, either.

33 Some other things in the ITR team's diagnosis, they have listed a
34 bunch of strengths, several innovative processes and management site
35 knowledgeable and future site-use planning that is being developed. But there

1 are a bunch of barriers, including what is the mission, what are the
2 priorities. Communications was poor within the site. There are a lot of
3 plans, but there is no integration and coordination, again another reason for
4 creating the Office of Planning now. There is a lot of gridlock, distrust and
5 uncertainty at that site, because they weren't sure what their mission was,
6 they weren't sure of the leadership and a whole bunch of other issues.

7 Clearly, we have had hundreds of audits and reviews. In fact,
8 last year, there were over 350 visits by different outside review groups.
9 That is one year. This created a backlog of 20,000 open audit findings and
10 4,000 management issues. And one of the things we are working on -- and
11 that is another thing I haven't told you about -- we are in a 2-week stand-
12 down now and we are looking at how do we prioritize those 20,000 audit
13 findings and 4,000 management issues. We have in the past been the
14 beneficiaries of multiple guidance from lots of people in Headquarters, and
15 some would suggest that this may have caused some confusion in the field. I
16 wouldn't say that, but others might.

17 So the recommendations to implement actions, issue mission
18 guidance, foundation development plan, mission plan, dealing with principle
19 strategies and objectives, internal communications, review and audit, aligning
20 the award fee, aligning the organization as part of my reorganization that we
21 are doing, and to align the activity data sheets, the management control
22 system, the work breakdown structure and elements with the mission plan,
23 foundation and so forth. We are doing most of those things. The technical
24 work logic, identifying short-term stabilization activities, inventory of
25 liabilities by activity.

26 One of the issues I would submit, as we talk about surplus
27 facilities, is the issue of what's the mission, and the mission is changing
28 very quickly, not only from DP to EM in clean-up, but also in terms of when
29 these things occur. If you can tell me when we are going to stop production,
30 for example, the non-nuclear production at Rocky Flats, then we can tell you
31 which buildings are going to be available when.

32 You can read most of the stuff. Let me talk about one or two
33 things that I do want to draw your attention to, because they are consistent
34 with what we are trying to do.

35 We developed a new mission statement and we did it with the

1 stakeholders, manage waste materials clean-up and convert the Rocky Flat site
2 to beneficial use in a manner that is safe environmentally, socially
3 responsible, physically secure and cost effective. That is mainly people who
4 don't work for the Department of Energy or EG&G, they are the ones that
5 developed that mission statement.

6 Now, this is a draft vision statement, because it is to be the
7 best use of managing to the point of total community acceptance and ownership
8 -- we scratched out the word "total" just yesterday, because you can't ever
9 get total community acceptance -- and by managing to achieve. So that is a
10 draft statement that we are working on in a strategic planning session that is
11 going on right now, through a strategic planning session we are working on the
12 vision.

13 I should point out that Rocky Flats, EG&G and Wackenhut each have
14 their own goals and visions and objectives, and in a 2-day strategic planning
15 session that is going on now, we are trying to bring them together in a site
16 mission, a site vision, site objectives and site strategies. In fact, the
17 vision draft that we were working on when I left yesterday was to be the model
18 within 3 years for environmental clean-up and economic conversion and achieve
19 community support and recognition, and then we are working on what is the end-
20 stage of that activity.

21 Basically, we established a new management structure. We are in a
22 stand-down process, working on training, missions and visions, total quality
23 and a couple of other things that you can look at.

24 This thing I will just point out very quickly. One of the things
25 that we worked on in another retreat that I just had last weekend was we
26 developed some core Rocky Flats values to complement the DOE core values, and
27 they included such things as best effort every time, team work, I trust you --
28 as opposed to just the word "trust" -- honesty, integrity and compassion,
29 loyalty and risk-taking. What we are saying is not everyone is going to be
30 willing to take risk, especially if they have been in the government for any
31 length of time, but that is a value, that if you want to take risks, at least
32 in innovation and creativity and making things better, we are going to value
33 that, as an organization.

34 Again, I will skip most of this stuff. You have got that and you
35 can look at that. I will close with stakeholder involvement is the key. We

1 really believe very strongly that that is going to be the key to implementing
2 our mission and our vision effectively. In fact, we took our draft vision
3 statement before the stakeholders on Monday night, before we sat down with
4 EG&G and Wackenhut, and asked for their comments on that vision statement that
5 I showed you. We got their comments and we are incorporating their comments.

6 Then we invited the stakeholders to attend our 2-day strategic
7 planning session that we had with DOE, EG&G and Wackenhut, and they are
8 sitting in on those 2 days of strategic planning as observers. But very now
9 and then we say stop, would you please step out of your roles as observers and
10 tell us what you think about where we are going, or what you as a stakeholder,
11 how do you react to this vision or our objectives and that sort of thing.

12 Finally, there is no question that, if we are going to succeed, it
13 is essential. It is going to strengthen that relationship in response to a
14 change that will reap the resources of all those other kinds of good things.

15 One of the things that we are just now getting our stakeholders to
16 realize is that plutonium is going to be at that site for a long period of
17 time. Even though we have made a commitment to the State and EPA and the
18 stakeholders to get the material off that site as quickly as possible, I told
19 them I can't commit to you whether it is going to be 5 years, 10, 15 or 20
20 years, because I don't know anyone who can tell me where there is going to be
21 a repository to accept this material.

22 So what we have to do is accept the fact that it is going to be
23 there for some period of time. And for however long it is there, it must be
24 stored safely, as safely as we can make it and as secure as we can make it,
25 and then we can deal with the long-term issue of sometime getting off that
26 site.

27 That may mean we are going to have to treat this material twice in
28 some cases, because, since I don't know where it is going or when it is going,
29 I can't tell you what the acceptance criteria is.

30 So our goal ought to be to accept the fact that it is going to be
31 here, get past that argument, treat some of that material that is in a less
32 safe mode like some of the liquids, put it in that safe mode and keep it here,
33 and then when someone tells me what the acceptance criteria is, then we can
34 see whether we have to treat it a second time.

35 There will be an additional cost, but I think that is more

1 prudent, as public policy makers, than trying to argue for the next 10 years
2 about what are the acceptance criteria and what should we do with this stuff.
3 We are trying to determine also, as I mentioned, what is the end-stage for
4 Rocky Flats as part of strategic planning.

5 That was as real quick and dirty. Than you very much. I forgot
6 to say very much for inviting me to be with you.

7 CO-CHAIR ALM: Thank you very much.

8 Why don't we at least have 10 or 15 minutes of discussion and then
9 move on to the next speaker and try to make up some time.

10 MS. FLAX: Throughout your presentation, Larry, you identified
11 certain challenges that your organization faces. Then, Mark, you mentioned
12 the challenge of integrating stakeholders into the work of your site. How can
13 this committee assist you in meeting those challenges?

14 MR. BIXBY: With respect to integrating the stakeholders into the
15 process, Shira?

16 MS. FLAX: And also the challenges that you and Larry mentioned
17 for your EM-60.

18 MR. BIXBY: One of the challenges that we have is to really look
19 at this process and say should we look at it from an EM perspective, that is,
20 all of these facilities coming over, and help the Department make a decision
21 as to should we take these facilities on or should we, as EM, push back on the
22 other parts of the Department and say, before you give us these facilities,
23 you need to put them in a condition that is suitable for long-term storage.

24 That is where this Committee could, say, give us sort of an
25 outside perspective as to whether or not we should in fact accept any more of
26 these facilities, or we in fact, from your perspective, should push back on
27 the other elements of the Department and say put these facilities to sleep
28 before you give them to EM. So that is one issue.

29 The other issue is we will be putting out transfer policy for the
30 Department. I think that may be an opportunity for this Committee to look at
31 that transfer policy and provide us their input on that. We will come back to
32 this Committee an provide you the results of Larry's efforts within the next 6
33 months, to provide you with some information in that regard.

34 From our perspective, the biggest question mark that I have is,
35 when I put my DOE hat on, I say we need to take care of these facilities,

1 these 1,325 or 1,400 facilities that look like that LANL building. When I put
2 on my EM hat, I say, wait a minute, we've got a lot on our plate right now
3 that we are trying to manage, are we in a position to take any more of those
4 on right now. So that is sort of the balance that we are trying to look at,
5 and we don't really have the right answer for that, and there is a lot of
6 internal debate within the Department on that.

7 The OMB has a lot of pressure on us, to say why is your budget
8 going up, and these are the reasons why the budget is going up. It is the
9 scope that is coming from these other programs.

10 CO-CHAIR ALM: I think we have three, Glenn Paulson, I think Tim
11 was next, and then Richard Bangart, and then Tad McCall. Let's go through the
12 four of them and then we need to move on.

13 DR. PAULSON: Willis, I guess this is for you or Larry. I need to
14 preface it by the comment that the two great photos of the LANL storage
15 building and the other building remind me of the very first years that I
16 started cleaning up industrial Superfund sites with buildings. Next year will
17 be my 20th anniversary of starting. That is kind of a perspective that I
18 bring to this.

19 What implications, if any, does the recent report of the Spent
20 Fuel Working Group have for your part of the EM operation that talks about the
21 K-basins, Building 603, et cetera?

22 MR. BIXBY: Jill keeps chiding me for this. When we sort of
23 divvied up the pie, Jill said that she would take the responsibility for spent
24 fuel, and so she has oversight for those facilities in which that spent fuel
25 is housed. I, on the other hand, have the plutonium, and so that is sort of
26 the dividing line between Jill and myself.

27 The implications with respect to our programs at the Purex
28 facility, it is identified in there that we have about I think it's 3
29 kilograms of fuel that is in the facility. Clearly, as part of our
30 deactivation program, we need to deal with that material, and we will.

31 For example, the K East basins, the K West basins, the basins down
32 at Savannah River, in the process that we live in, those belong to Jill, in
33 Richland. The ones at Savannah River, they would like to be transferred over
34 from Defense Programs to EM. Basically, those would come and go directly to
35 EM-30, and we would not be responsible for them. We are sort of the broker in

1 EM.

2 We are sort of on the watch for those facilities that are coming
3 over. If there are facilities that are coming over, we try to get them
4 positioned in the right organization, be it 30 or 40. Some of these may go
5 right through us directly to 40, and that is what we are trying to do a sort
6 on.

7 CO-CHAIR ALM: Tim, you're next.

8 MR. CONNOR: The first question I have, when we were at Rocky
9 Flats, it was clear that there was some discontent in the stakeholder
10 community about the plan to -- I forget the name of the project, I think then
11 it was called a conversion plan of some sort, that brought depleted uranium
12 beryllium onto Rocky Flats, and there was as great deal of concern as to
13 whether all the stakeholders had been apprised and involved in that. And that
14 has sort of emerged into what is a dispute and an ambiguity as to the
15 relationship between the Local Impacts Initiative and their role in future use
16 planning for Rocky Flats and the role that the CAB is going to have at some
17 point.

18 I would just like to know your views on how that is going to work.
19 I understand the Local impact Initiative is due to sunset I believe in 1996,
20 and at some point the CAB would presumably take on more of the role of
21 advising the Department on future uses for Rocky Flats. Can you speak to that
22 relationship right now, particularly in light of the October statement about
23 the principles of the transition?

24 MR. BIXBY: With respect to the Citizens Advisory Board, I would
25 see that to become the focal point for our interactions of Rocky Flats that
26 represent the whole cross-section of activities that go with Rocky Flats. You
27 have to recognize a little bit, you know, that for those that are inside
28 trying to deal with the outside, we have a hard time really finding out
29 everybody who is on the outside. We have that problem at Richland. We had a
30 little bit of that problem at Rocky Flats.

31 The Rocky Flats Local Impact Initiative was really set up to
32 provide sort of that linkage between DOE and the external community in such a
33 way as it provided an avenue for the employees and a function to go find out
34 are there other opportunities outside of Rocky Flats for these folks that are
35 going to be displaced to go find other jobs, to be a real linkage with that,

1 to be a real facilitator with the State to get resources.

2 With respect to the MSC proposal, we have heard very strongly the
3 need to get stakeholders involved. In fact, that project has been structured
4 in such a way as that we are taking baby steps with key decisions point,
5 before we actually move forward to implement that project, if in fact it is
6 implementable.

7 One of the challenges that we have at sites like Rocky Flats, but,
8 more importantly, at other sites that are coming, like Pinellas, is that we
9 have very capable people, with very strong resources, and the challenges there
10 is to create employment lines and not unemployment lines. What that sets up
11 is a little tension with respect to you're going to do work in a facility that
12 was contaminated or potentially contaminated, and going to do commercial work,
13 what are all the obstacles or challenges that we have to go through to sort
14 out whether in fact you can do that.

15 There are a lot of institutional question. In fact, the economic
16 development end of the business is clear that that has got to have some kind
17 of top-level view within the Department that says we are going to go try and
18 tackle some of these challenges and get out of "we can't do it" into "we can
19 do it," and to be able to deal with institutional barriers like, for example,
20 at Rocky Flats, can you in fact use a building that has at some time had some
21 limited contamination, who is going to be responsible for cleaning it up.

22 Go ahead, Mark.

23 MR. SILVERMAN: Let me give you a couple other aspects of that
24 perspective. One is too many people are talking to too many citizens groups,
25 without trying to bring them together, and so we have created some tension
26 amongst the various citizens groups.

27 So what I have tried to do is I now meet jointly with them. I
28 don't care whether it is the CAB or RFLII or any of those other citizens
29 groups. My concern is that all the citizens who care are brought together to
30 sit down, and we sit down and tell them what we plan to do and then listen to
31 what their responses or reactions are and see if that fits with what they
32 think we ought to do. Then, better than telling them what we are going to do,
33 is share with them up-front here is what we are thinking of doing or what do
34 you think we should do.

35 So one of the things we are doing now or working on is trying to

1 form a joint committee of CAB, RFLII and other citizens to look this whole
2 issue of economic conversion and the larger issue of land-use planning, what
3 do you want that site to be.

4 MR. CONNOR: That answers my question.

5 The other question, just real quickly --

6 MR. SILVERMAN: He's from Washington, he talks global and I can
7 talk in micro.

8 MR. CONNOR: Just a brief question which I hope you can answer in
9 30 seconds. Do you have any other revenue from DP coming into EM aside from
10 that that you are getting to babysit special nuclear materials?

11 MR. BIXBY: We get about \$45 million from DP to babysit those
12 materials.

13 MR. CONNOR: But that's the only direct revenue transfer from DP
14 to your program?

15 MR. BIXBY: They budget for that money and then send it to Mark to
16 cover that activity.

17 MR. CONNOR: And that is the only --

18 MR. BIXBY: Just for Rocky Flats and for Richland.

19 MR. CONNOR: Thank you.

20 MR. BIXBY: Can I just make one 30-second comment with respect to
21 the site. One of the things that I told Mark is that in the past the
22 Department has sort of been providing directions from Headquarters in terms of
23 what to do. That has got to change in terms of the site going and working
24 with the community, to make sure that the community tells us what it is that
25 we are going to need to do in order to be successful when we get done. We are
26 only going to be as good as how clean or how well we succeed in implementing a
27 vision that the folks in that affected area agree is the right vision for us
28 to pursue.

29 CO-CHAIR ALM: I would like to go through the next two questions,
30 if you can make your answers as brief as possible, because we are about 20
31 minutes late. Dick?

32 MR. BANGART: You made two comments that suggested perhaps that
33 there isn't the kind of integration that maybe should be occurring. One, you
34 said that EM doesn't accept responsibility for clean-up of asbestos, asbestos
35 removal, PCB's, lead I think. One question is why don't you accept

1 responsibility? What is the logic behind it? It seems to me that the
2 expertise for clean-up lies with EM, not other parts of DOE.

3 Secondly, you said you are managing the storage of plutonium at
4 Rocky Flats. That requires I think some skills that I wouldn't necessarily
5 expect that there would be a great abundance of in EM, with criticality
6 safeguards, MC&A and whatever. I hope you are going to tell me that you are
7 not developing those skills or hiring those skills within EM, that I would
8 hope you are matrixing with other parts of DOE where those skills currently
9 exist, rather than establishing an independent capability.

10 MR. BIXBY: The answer to the last question is when the facilities
11 transfer over, we get the resources that have been there to manage those
12 facilities in the past. The answer to the first question is that we are
13 trying to instill in the operating programs, the line programs, their
14 responsibility to do the maintenance and housekeeping of those particular
15 facilities. When they are process contaminated and they are surplus to their
16 mission, then they come over to EM. Surplus to their mission, that is when we
17 get them.

18 MR. BANGART: I am not sure how that relates to the
19 responsibilities of --

20 MR. SILVERMAN: As an operating facility, I still have to deal
21 with those issues, asbestos and beryllium and all those things, so I have to -
22 -

23 MR. BANGART: So you have to clean up the facility?

24 MR. SILVERMAN: We have to clean up the facilities. They are
25 there, they are on the facility, they are a safety issue, I have got to deal
26 with them.

27 MR. BANGART: As an operating facility.

28 MR. SILVERMAN: As an operating facility. Then when we go into
29 D&D, then we deal on the second thing. On the second question --

30 MR. BANGART: All operating facilities now are going to have
31 asbestos and PCB's removed from them?

32 MR. SILVERMAN: We have to analyze the situation and see what kind
33 of risk they pose. We are in the process of dealing with that and in some
34 cases we are removing asbestos, and in other cases we are seeing are the
35 people really going to be in those facilities.

1 MR. BANGART: So there may be some that would be surplus with
2 those materials still in existence?

3 MR. WEINER: Because of the amount of time I had, I didn't get
4 into what some of the policy issues are.

5 MR. BANGART: I don't want to beat this to death, if it is a long
6 and involved answer.

7 MR. WEINER: As a rule, EM does not take, say, an office building
8 that has asbestos insulation in it or may have had lead paint or could have a
9 PCB transformer in it. If it is surplus and has those things, as a rule we
10 won't take it. We have done some of those in the past, but the thinking there
11 is it is the responsibility of the landlord or the asbestos abatement program
12 at the facility to take care of those particular kinds of surplus facilities.

13 Now, the question is should those facilities transfer. We are
14 trying to figure out how many there are, what the magnitude of the problem is,
15 and whether or not we have to change EM's mission and function statement to
16 accommodate that.

17 MR. BANGART: I think the more fundamental question is how is the
18 Department assured that the clean-up of those facilities that you just
19 mentioned as examples occur in the same way that facilities are being cleaned
20 up under the EM program. It is the integration of clean-up that I am
21 concerned about between DP and EM.

22 MR. WEINER: And as you can tell by the number of surplus
23 facilities backlogged out there, not a lot of that is going on, unfortunately,
24 in the other programs, and that is what we are trying to figure out, is how
25 many are still out there.

26 CO-CHAIR ALM: Tad?

27 MR. McCALL: I would like to follow up on Richard's line of
28 inquiry here. I would first like to say I think Wills and Weiner are really
29 great public servants. If I weren't looking for a job and I had one, I would
30 hire them. But that doesn't mean that their program and this briefing should
31 go without some outrage from this Committee. And if Tom Grumbly wants us to
32 be board of directors and partners with him, this Department is going to have
33 to step up to the plate on problems like this much more forthrightly than what
34 we are getting.

35 Do you get enough money to take these facilities and continue your

1 other clear-up programs and move them out to an end-use? Do you get that kind
2 of money from DOE?

3 MR. BIXBY: Within the Department for those that are operating,
4 let's say we have a pretty good shot at that. But those facilities that I
5 showed you that are there in those pictures, no, and we are not taking them
6 on, Tad. We are not taking those on.

7 MR. McCALL: And I applaud you for not taking them on, but it
8 leaves us with a problem, because no one is taking them on. And what we have
9 got is we have got institutional gridlock, and that means denial of
10 institutional responsibility to citizens of the United States.

11 I am sorry I am on a soap box, but this is darned important stuff.
12 We have got the Public Accountability Office coming next. This is an example
13 of no accountability. And I don't care whether it is President Clinton and
14 Hazel O'Leary or what, but until you take those other program offices, those
15 other assistant secretaries and bang their heads on the table and say this is
16 an administration responsibility, this is something the President of the
17 United States has to do, and that is we have got to orderly transfer these
18 facilities in a way that not just looks at a safe harbor, to get them from DP
19 to EM, but talks about ultimate end-use.

20 We didn't talk in this conversation about the regulatory
21 authorities that we are going to have to process through to get these
22 properties into a second life, right?

23 MR. BIXBY: That's right.

24 MR. McCALL: That isn't your responsibility, is it?

25 MR. BIXBY: That is part of our responsibility. At Hanford,
26 dealing with release of land there, we are going to have to deal with that
27 issue there.

28 MR. McCALL: Do you have an answer now?

29 MR. BIXBY: No.

30 MR. McCALL: One other question, and I would like to turn to Rocky
31 Flats. I spent 2 years -- Rocky Flats is the most problematic institution or
32 organization I dealt with in the EPA. I commend you for what you are doing
33 with the public, but what I would like to ask of this Department is: (1) a
34 copy of all correspondence between Rocky Flats Plant, EPA and the State of
35 Colorado regarding environmental responsibilities. You are going to see that

1 in this set of correspondence, we have repeatedly asked that there be -- at
2 first we told them they were going to miss milestones, they denied it -- We
3 asked them to fund, they denied it. Tom Grumbly has gone to Colorado and he
4 has told EPA that he will not fund to meet the levels that are needed to come
5 into compliance.

6 That is what our baseline is. We have been told by the person who
7 wants us to be board of directors, we are not going to get the funding. I
8 would like to have the correspondence that lays this on the record, and I
9 would like a copy of internal DOE memoranda and pre-decisional documents that
10 led to the DOE correspondence. Because I sent correspondence to DOE that
11 wasn't answered for 6 months, and we would like to know why. We would like to
12 know what was behind that, and I ask for that.

13 CO-CHAIR ALM: I think this is one of the issues we all ought to
14 talk about when we meet just among us later today. Clearly, this is an issue
15 that has been raised, and the issue of how DOE handles facilities other than
16 those that EM takes over.

17 Thank you all for really excellent briefings. I am sorry we have
18 to move on, but we are already 25 minutes late.

19 Cindy Kelly, you are going to talk about the Site-Specific
20 Advisory Boards.

21 MS. KELLY: Thank you very much for inviting me here. I am Cindy
22 Kelly. I am the Director of the newly created Office of Public
23 Accountability, and I already can tell you I have great expectations for this
24 office.

25 I am pleased to begin to work with you and hope that together we
26 can begin to fulfill some of these expectations. The purpose of the office
27 was to try to reverse the 40-some years of secrecy that started with the
28 Manhattan Project and created a huge rift between the Department and the
29 public and major problems of credibility that Secretary O'Leary and Tom
30 Grumbly are personally extremely committed to try to heal over the next 3 or
31 10 years, however long.

32 I want to try to help you make up for some time. I see in the
33 group we have many experts on Site-Specific Advisory Boards who probably could
34 give the same briefing for you. So I am going to try to get to the heart
35 question, which is the role of EMAC versus these Site-Specific Advisory

1 Boards, and I will go quickly through the other parts of the presentation. We
2 can go back, if you have questions.

3 I just want to say something that you all know or you may
4 appreciate, is that dealing with Site-Specific Advisory Boards is not our
5 whole program. We need to reach out, just as Mark is doing, to reach out to
6 all the citizen groups in the Rocky Flats area and use a whole variety of
7 means to communicate with the public, with the local government officials,
8 with the citizens who are on the board, off the board, all varieties.

9 We also feel -- and I think this came up in the last discussion --
10 that it is key that we begin to sort out how does this decision-making process
11 work, how will it work at each site, who is making the decisions with respect
12 to future uses, with respect to our landlord role, what is the relationship
13 between the Department, EPA and the State-- you know, we are tripartite group
14 -- vis-a-vis the Site-Specific Advisory Boards. But that only begins to try
15 to capture the various decision-making relationships among those parties.

16 Staff training is key. As I have mentioned, the culture of DOE is
17 not to come forth to the public with what we are doing. Everyone has been
18 trained to try to respect the secrecy of the work that they are doing, so it
19 will require some support and some training, and we have got a major program
20 on that line, and, again, to use all the mechanisms that are available.

21 Yesterday, I guess it was mentioned that we are having a new 1-800
22 number and an electronic bulletin board available to all citizens in the
23 country to call in, and it will be a place where we will have information on
24 what is going on at all the sites and on the broader national programs that
25 can be available to people when they call in. That should be up in mid-
26 January.

27 I don't know that I need to go over the advantage of the Site-
28 Specific Advisory Boards. Tad McCall wrote the book -- do you have any
29 questions -- as a leader of the dialogue process between the different
30 governmental agencies that led to this.

31 Key to the functioning of the Site-Specific Advisory Boards is
32 that we have a broad representative group of citizens from the area, local
33 governments, labor, and activists. One of the advantages is that they look at
34 these issues, not as Tom Grumbly is always describing, with a stove-pipe
35 mentality, but as a whole, and they have been proven at Hanford in the task

1 forces that have met there to be extremely perceptive and logical and have
2 contributed immeasurably to looking at the future of that site and helping us
3 define a policy for dealing with it.

4 I said joint decision-making. Again, I think it is a frightening
5 prospect for people in the Federal Government who feel that it is their
6 responsibility to make these decisions to turn over, as they see it, decision-
7 making to another outside group, but it is more of providing a credibility and
8 authority to the decisions the Department does make, if it is based in the
9 thoughts and deliberations of these people. It is a joint decision-making
10 process. Clearly, the Department does not abrogate its responsibilities to
11 make decisions, but they will make better decisions, informed decisions and
12 decisions that have the support of the people that are most affected.

13 I think we have sort of touched on most of these points. Key to
14 this is delegating to the field responsibility to manage these processes on a
15 day-to-day basis with our office and other parts of the EM program and the
16 Department as a whole providing support. We are going to follow the
17 principles that were hammered out over a 2-year process and captured in what
18 we call the Keystone Report. This is clearly a joint sort of tri-party
19 effort. It is a State effort, as much as EPA effort, as DOE. We are
20 together. We have ex-officio members on all of these groups.

21 It is so important that the stakeholders be balanced in their
22 representation. One thing we added on the bottom here is that we are going to
23 make sure that these groups know that their fundamental responsibility is to
24 focus on the questions that we have in managing these sites. Although many of
25 them have chosen to take a broader view and look at the defense mission
26 questions and other questions that are related at their side, that is fine, as
27 long as they get to the core issues.

28 Here is where we stand. We have got three Site-Specific Advisory
29 Boards on line in Rocky Flats, Fernald and Grand Junction. Two others are
30 coming on in January at Hanford and Savannah River, and we have five or six
31 others being formed. This is not dragging our feet. It is absolutely
32 critical that the formation be done deliberately and the process of selecting
33 who is going to be on it be perceived to be a fair process. So it is worth
34 spending the 3 or 4 months that these sites are taking, to make sure that the
35 right people are on the group.

1 Now, what is the sticky wicket? The sticky part of this whole
2 process has been how do these groups relate to the question of the Federal
3 Advisory Committee Act requirements that groups that meet regularly and
4 provide the government recommendations be chartered under the Federal Advisory
5 Committee Act.

6 It is interesting, because the Keystone group deliberated whether
7 these working groups should be chartered, whether they should have to be
8 chartered. The reason for the chartering was that -- I don't know, long
9 before Doug Costle's time at EPA, there were administrators and other
10 government leaders who might have ex-parte contact with the industry,
11 something like that. This is when Ralph Nader just got started.

12 In fact, he was the one who brought suit or half the suits on the
13 books with respect to making sure groups are chartered, and all the charter
14 requires is that they have diverse representation on their boards, that they
15 operate in an open manner, that the public is welcome to sit in, and that they
16 have notice of their meetings and that their meeting results are published or
17 made available to interested parties.

18 All of those things are guidelines for these Site-Specific
19 Advisory Boards. They are going to do all of those key things that the law
20 requires. The question is do we really need to go and charter them, if they
21 are going to comply with everything that is the spirit of this process.
22 Conservatively, people have said yes, you ought to go that next step and make
23 sure, just in case. So this is what we have come up with.

24 The problem, of course, that cuts the other way of making this all
25 very easy and simple is that it takes as long time to get charters through the
26 Office of Management and Budget, and there is a commitment on the part of the
27 Clinton Administration, as there was on the part of the Bush and Reagan
28 Administrations to cut back on the number of chartered committees.

29 So we have an uncertain prospect as to whether this third option
30 that all of these groups get independent charters is going to be a very timely
31 one, whether it really makes a lot of sense to people to spend a lot of time
32 and effort seeking them. That is not to say they can't. It is one option.

33 The first option is that this group, you guys, serve as the
34 umbrella. This is something that EPA has done for many years. They have a
35 National Advisory Committee on Policy and Technology (NACPT) that has

1 functioned for EPA as an umbrella group to many other groups.

2 The Superfund Reauthorization Committee that EPA had this summer
3 to look at options under CERCLA was defined as a sub-group or a working group
4 to their sort of major policy advisory committee, and that saved a lot of
5 time, it enabled EPA to be sure that its group could make recommendations to
6 the Department without fear that a party that didn't happen to get a seat at
7 the table would challenge on the grounds that the group was unchartered.

8 So it has precedent for using a national advisory committee that
9 already exists, and then defining these sub-groups as working groups. The
10 advantages of this, as already touched on, this is the administrative burden
11 of having to go around and get individual charters for everybody or finding
12 another group, creating another entity that would be the mother for all these
13 little groups. You can start now, there is no delay. It will promote
14 networking.

15 You will hear, perhaps in your new capacity as overseeing all
16 these things, you can invite people in or we can have a sub-group of the EMAC
17 work some of these committees. In fact, many of you are probably on the Site-
18 Specific Advisory Boards, anyway, so there is a lot of connection between your
19 group and them already. And it would help when these issues come up to get
20 national direction, and that is your job, is to help provide Tom Grumbly, as
21 his board of directors, with policy direction on a lot of issues that will
22 come up through these Site-Specific Advisory Boards.

23 On the other side, one of the defining things in the statute as to
24 whether a working group is to be considered a sub-group of another chartered
25 group is whether or not they are independent. Officially, if we go this
26 route, the Site-Specific Advisory Boards cannot operate independently of the
27 EMAC. All recommendations must go to you.

28 Now, many of the Site-Specific Advisory Boards have already
29 expressed concern, because they feel that their dialogue and their
30 responsibility is to work directly with the State, with the EPA and the
31 Department of Energy at the sites, and that if they have to go through this
32 board, that will be inhibiting, it will cause time delays, they may get
33 conflicting sets of direction, and so forth. So they are worried about that.

34 One thought we had, we have been saying don't worry about it, and
35 we know a lot of the members in EMAC and they are going to be great to work

1 with and will work it out with you. Now, we were a little presumptuous, I
2 suppose, because we hadn't met with you to talk with you about that. So we
3 may have to go back and give them other direction. But we have been
4 proceeding on the assumption that we could make this all work.

5 We realize that people are going to be more comfortable, if there
6 is something in writing, that if we can clarify exactly how you intend to
7 oversee these groups. We have been telling them if you make recommendations
8 to EMAC, you can "cc" the others at the same time, that as ex-officio members
9 of the Site-Specific Advisory Board, the EPA, DOE and State principals will be
10 there, they will know everything, there won't be a time delay and they are
11 knowing what the SSAB's are thinking. At any rate, that was just sort of our
12 sales job in trying to say that this arrangement really would be convenient
13 and a good one.

14 CO-CHAIR COSTLE: Cindy, could I ask you for just a quick
15 clarification?

16 MS. KELLY: Sure.

17 CO-CHAIR COSTLE: Is one of the options you have considered the
18 possibility of EMAC being a temporary holding company while you get these up
19 and running, and then let them sort of from the bottom-up build an oversight
20 board of their own members, for example, a single representative from each of
21 these Site-Specific Boards, and then gradually they assume the governance
22 responsibility?

23 MS. KELLY: That is a good suggestion.

24 CO-CHAIR COSTLE: That's an option?

25 MS. KELLY: That's an option. That is a very good option. They
26 might like that.

27 We are having some trouble with the General Counsel's Office in
28 amending EMAC's charter. The only trouble is to make sure that it gives the
29 sense that they are not independent and the recommendations go to you, which I
30 think we can do, but obviously it causes some consternation on their part.

31 At any rate, we were thinking one way to move from here is to get
32 your input on this whole strategy and perhaps have a group of two or three of
33 you work with two or three of them to come up with an MOU, a memorandum of
34 understanding, to say, all right, this is how we are going to work together,
35 just so that everybody understands that they should be submitting reports to

1 you or forwarding their recommendations or whatever, and then clarify their
2 responsibilities and yours, too, and maybe clarify that, in the longer term,
3 if you agree with Doug's suggestion, in the longer term there would be -- you
4 know, we could form that other umbrella group that would be not EMAC, but
5 their own sort of group that had the key members from the Site-Specific
6 Advisory Boards.

7 That is all I have.

8 CO-CHAIR ALM: In order, Glen Sjoblom is first.

9 MR. SJOBLUM: Yes, I want to reiterate Cindy's and my intent and
10 hope that we can work out a way that both preserves the independence of these
11 local groups, as well as remains within the confines that are laid out by the
12 Federal Advisory Committee Act. Under that, I am the designated Federal
13 official, and I would have some responsibility to ensure that the processes
14 out in the field were indeed in conformance, and so I have a certain amount of
15 personal stake here.

16 The General Counsel specifically indicated we really have only two
17 options. We either have reports from SSAB's somehow come through this
18 Committee, or they have to be chartered individually, if recommendations are
19 to go directly to a local Federal recipient such as either DOE or EPA.

20 I talked to Tom Grumbly about this problem just a couple days ago,
21 Monday evening, and he remains affirmative that we need to work it out so that
22 we afford the SSAB's the opportunity to try to work through the EMAC.

23 Now, I think Cindy's idea to convene a group perhaps of people
24 from the Committee here to work this out in conjunction with some of the key
25 SSAB's that are forming does offer a way through the thicket. It may be as
26 simple as identifying a mechanism by which these local recommendations come
27 through and are copied to the local groups. It would obviously need to be
28 done so that those local recommendations wouldn't have to sit while this
29 Committee of the whole acted on them. That would be unuseful. So we would
30 need to work out something that would allow things to go in real time.

31 I don't have the exact prescription for it, nor does Cindy at this
32 point, but we think that by getting some sort of sub-group Committee from this
33 organization to work with the rising SSAB chairmen, perhaps some sort of
34 nugget could be worked out that would help, and I would highly recommend that
35 this group consider such an option affirmatively.

1 CO-CHAIR ALM: Let me go through the list of questioners: Bill
2 Freudenburg, followed by Jerry Christean, Tim Connor, Jay Sorenson, Vicky
3 Dastillung, Tom Winston and Ken Korkia.

4 DR. FREUDENBURG: This I believe is one case where you should have
5 paid attention to our previous deliberations and it actually would have helped
6 you. Because I was at as meeting, I thought in Idaho, I thought, where Vicky,
7 among other people, sketched out about 15 different possibilities. I remember
8 Jerry, among others, saying let's try and do something, and I believe we had
9 discussed this at some length and decided (1) if it would be helpful and
10 workable in some way, (2) if nobody has to go to jail, and (3) if we can avoid
11 any appearance that we are trying to control these Site-Specific Advisory
12 Boards, we want to work with you.

13 So I think, in principle, the Committee has already decided yes,
14 we want to try and help out. Our biggest concern that I recall -- and it
15 wasn't really adequately reflected in the minutes, which, by the way, we
16 haven't discussed whether we are going to approve or amend or anything else --
17 is the specific thing about not trying to control the Site-Specific Advisory
18 Boards. It is in the nature of committees, that if you give even a committee
19 as august and insightful as this one an opportunity to vote on whether we
20 think the Site-Specific Advisory Board ideas are good, pretty soon we will be
21 discussing whether or not we think their coffee budgets are too big or too
22 small.

23 So I think the key thing is that if the reports need to come to us
24 for our information -- I could actually be quite interested in that -- but if
25 there is any indication that, for more than one time out of a hundred, we
26 would actually have to be voting on their recommendations, I think that would
27 be a bad thing, even though I would be one of the first people to be
28 complaining about the coffee budgets, or maybe because I would be one of the
29 first people to be complaining.

30 So I believe we have already given you the go-ahead for this,
31 haven't we?

32 CO-CHAIR ALM: Do you want to just answer that?

33 MR. CHRISTEAN: Mr. Chairman, I guess I can respond to that.

34 CO-CHAIR ALM: Jerry, you're next on the list, anyway.

35 MR. CHRISTEAN: One of the strong advocates in the last meeting --

1 and I am wondering, are we the only ones that read our minutes? Do other
2 folks read our minutes? Actually, Bill is actually right, we have decided
3 this issue already and we voted, one of the few votes that we took.

4 So if I understand correctly, we have already decided, yes, we
5 will accept this, what do you need for us to do to help you implement it, and
6 let's get it done. I am confused by this.

7 MS. KELLY: Don, do you want to --

8 MR. BECK: I just wanted to respond that --

9 MR. CHRISTEAN: Excuse me. Who are you?

10 MR. BECK: Don Beck. I work for Cindy Kelly in the Office of
11 Public Accountability.

12 MR. CHRISTEAN: Thank you.

13 MR. BECK: One of the things that we have heard in dealing with
14 the Site-Specific Advisory Board in fact is those concerns. A lot of the
15 Site-Specific Advisory Board people were quite concerned about the idea of
16 EMAC serving as the umbrella group, and so I think one of the ideas here is
17 that I think we need to come back and put that out on the table and let you
18 folks know that, from the Site-Specific Advisory Board, there are some issues,
19 and I think, to make this move forward and be successful, that we do need some
20 interaction between EMAC directly with the Site-Specific Advisory Boards to
21 help reduce some of those concerns that they have.

22 DR. FREUDENBURG: Mr. Chairman, I would like to move that we
23 appoint a subcommittee to work with the Site-Specific Advisory Boards and
24 instruct that committee to be as helpful as they can, provided we don't in any
25 way be represented as not just an umbrella group, but a group that has to
26 concur in some way with the -- it is not our business what the citizens and
27 the local facilities agree on, and I think that should be part of the
28 instruction to the Subcommittee.

29 MR. CHRISTEAN: Autonomy is the word we are hunting for here, and
30 that was the basis on which this was agreed to by all of us, is that when
31 Committee members were assured that autonomy was going to be extended fully to
32 the site-specific boards, I think that was the basis on which we all agreed.

33 CO-CHAIR ALM: If this motion were to read that the Subcommittee
34 would be appointed to work with the Site-Specific Advisory Boards, so that the
35 sense of this Committee is that we would allow them autonomy, but have some

1 functions, would that meet your concerns?

2 MS. KELLY: It gets very ticklish, because if the Committee is too
3 articulate about -- you know, if we have on paper the relationship being one
4 of EMAC affording the Site-Specific Advisory Boards autonomy, independence,
5 then it breaks down.

6 CO-CHAIR ALM: Let me make a suggestion. Why don't I come back to
7 your motion after we have had the other people have an opportunity to talk
8 about it, if that is okay, Bill.

9 DR. FREUDENBURG: I would be happy with any wording that doesn't
10 get us thrown in jail, provided you are in fact able to convey to people that
11 we think it would -- yes, I would be real irritated at the idea of some other
12 Committee in Washington that meets once every three or four months getting in
13 between me and the local facility, if I were on one of them, and we think that
14 is exactly the right way to feel about it.

15 CO-CHAIR ALM: Bill, if you do wind up in jail, there will be a
16 new organization to study.

17 DR. FREUDENBURG: I think I will have some insights going in.

18 CO-CHAIR ALM: Tim?

19 MR. CONNOR: First of all, I would like to commend you and the
20 Department for the work that you have done in implementing the site-advisory
21 boards and the public participation program. I think it has been an
22 incredible success thus far. It is far from finished, but the effort has been
23 outstanding. You know, I for one could not have asked for more of the
24 Department in that regard.

25 My concern goes to EMAC serving as the umbrella charter. I think,
26 whereas, the Committee has largely moved past the controversy that attended
27 its inception, that a lot of people out in the hinterlands that you were
28 hearing from are not beyond it, that is just the way the world works. There
29 is a real perception that EMAC was set up by a previous administration, that
30 it engaged in black-balling.

31 In fact, at the first meeting, then Assistant Secretary Duffy
32 regrettably summarized the Department's outreach program as the EMAC, which
33 really was an insult to a lot of people at the sites who didn't think that
34 EMAC could possibly represent their concerns, and that is a lot of the residue
35 that we are hearing here. It is regrettable, I think. I have nothing but the

1 highest respect for the other members of this Committee who have been
2 outstanding in many respects, but it is impossible to convey that in a way to
3 the sites that would make them any more amenable to this idea.

4 The fact that EMAC, the language that is passed at the Idaho
5 meeting was a sign of good-will, but I don't think it would be quite enough.
6 I mean I am a little bit concerned that this may be the only option that DOE
7 is considering with gusto. I think an option like the one Mr. Costle put on
8 the table about serving perhaps in a facilitative role until the boards
9 themselves could have their own mother ship, that very much fits, by the way,
10 with the recommendations from the Office of Technology Assessment, when they
11 put forth their own plans on how, after going out in the hinterlands and
12 studying the problems of public participation. So I would hope that we could
13 consider that, and I would make an appeal to study that.

14 I am a little confused right now as to whether your conversations
15 with the Office of General Counsel, whether they have in fact just given you
16 two options.

17 MS. KELLY: The conversations really have been largely in the
18 context of the EMAC charter, you know, that option, whether in fact we can
19 define this as an umbrella group for those Site-Specific Advisory Boards, and
20 there they have been very clear that you have to be careful. These SSAB's
21 cannot be seen as independent, and that is where we get into this message.
22 You know, it would have been very easy for EMAC to have written all the right
23 words, because it seems to capture the sentiment that they ought to be
24 independent. But as soon as you write a document like that, it blows the
25 cover.

26 MR. CONNOR: Yes.

27 Co-CHAIRMAN ALM: Jay, I think you're next.

28 MR. CONNOR: I had one other thing I wanted to say, and that is
29 last week I was at a working group of the Keystone group, where Mr. Beck
30 announced, much to his chagrin, I am sure, given the reaction received at the
31 Department -- it was so interested in implementing, that it wanted to withdraw
32 from that working group, Keystone.

33 I would encourage you to very much reconsider that decision,
34 particularly in light of the perception problems that sends to people who feel
35 that they were left out. I am speaking particularly of the environmental

1 justice community, that felt it was under-represented in the drafting of the
2 Keystone Report.

3 MS. KELLY: Well, I am happy to announce that yesterday we met
4 with Keystone, and there were second sets of meetings and we reported that
5 indeed we are going to embrace it and continue.

6 MR. CONNOR: Thank you.

7 CO-CHAIR ALM: Jay?

8 DR. SORENSON: I, too, want to tell you that I am very impressed
9 with all the changes that are occurring, and I am an old-time DOE watcher,
10 former consultant, and the changes that I have seen in the last 6 months I did
11 not think I would really see at all. So I think enormous progress has been
12 made, and progress to the better.

13 I am in the process of helping to create an advisory board in
14 Albuquerque for Sandia National Laboratories. One of my proposals is one that
15 is on the table. The concerns that I have are pretty much the concerns that
16 Tim has just mentioned. A lot of the people that I am talking to, not only in
17 Albuquerque, but around the country, are afraid of this proposal. They are
18 wary about having EMAC as an umbrella organization. They also, however,
19 realize the difficulties of being created independently, and so there is a
20 willingness to watch and wait and to explore a bit.

21 I think really that the motion that was made is a very sound one,
22 and what I would like to point out is a point that goes to the heart of the
23 motion and perhaps the problem of confidence that is out there, and it is a
24 simple observation. It is based on a simple observation, and that is that
25 there are many people in this room, seven or eight or more who enjoy great
26 credibility with the local people who are either on advisory boards or who are
27 striving to have them created, and there are seven of them or perhaps eight in
28 this room right now.

29 If the motion were to be passed and the Subcommittee were to have
30 those seven or eight or more on it, I think really that would help to
31 alleviate some of the fears and concerns of the people who really are going to
32 be on these advisory boards, so that may help. Of course, they range really
33 from Jim Russell to Tad McCall and Shira and Ken and Tim and Vicky, and I hope
34 I haven't missed anyone, but all have been involved in one way or another very
35 directly in the creation of these advisory boards, and I have, too. So I

1 think the mechanism is there. But they are expressing significant
2 reservations about the process.

3 I, too, attended the meeting that Tim referred to, where we
4 witnessed one of the most remarkable things I have ever seen, and that is
5 really an individual being berated on the grounds that he wanted to leave, and
6 he was basically told that he couldn't, but really in terms that would make
7 anyone really want to.

8 So it was rather remarkable. What I might suggest is, in terms of
9 my own personal thoughts on that, people don't particularly like surprises.
10 If that were really an idea that you wanted out, on the grounds that we had
11 moved really from the discussion stage to the implementation stage, it might
12 have been a good idea to have advanced that in writing.

13 Most surprises are received negatively. People react rather
14 unpleasantly to them. But I am delighted to hear that you have changed your
15 mind.

16 CO-CHAIR ALM: Thank you. I think you are next.

17 MS. DASTILLUNG: Our recommendation that we made in Idaho was, if
18 the SSAB folks were happy with the idea, then we would be willing to do this.
19 Response that I have been getting, just in general talking with people, is the
20 first reaction is, hell, no. So I am afraid that if DOE starts pushing this
21 like when we get this all accomplished under EMAC, rather than if we should,
22 it is going to be perceived that DOE is pushing their agenda down the throats
23 of the local folks, and it is not going to work, because the local folks for
24 years have been tired of having DOE ram the things down their throats.

25 So even if it ends up being a good idea and you can accommodate
26 it, the perception that is being formed out there is it doesn't matter what we
27 say, they are going to do it, anyway. So I just caution you on a lot of the
28 wording and how you are investigating this, because you may find you have got
29 a lot of static in the end.

30 MS. KELLY: It is hard to figure out how much time to spend on the
31 process. I mean this is just one tiny issue. I think it is an issue that is
32 almost a non-issue. You wonder who is going to challenge these groups. I
33 mean if they are really upset with what the group recommends, then there will
34 be lots of other avenues for challenge, lots of them. So I just hate to see
35 all the time of people like this group and other groups all over the country

1 being spent on this issue, which it is really difficult for me to see the
2 importance of it, other than legally.

3 MS. DASTILLUNG: If members of the SSAB's feel that the spirit of
4 the Keystone document are not being followed in the SSAB's, I could foresee
5 people dropping off of your SSAB's out of frustration over the spirit of
6 Keystone being denied them.

7 MR. KELLY: But Keystone even said you don't need to charter them.
8 If we set them up and we are trying to set them up following the Keystone
9 recommendations, wide representation, open meetings and so forth, that it
10 almost seems like one option is to go for it, just run it the State way. The
11 State and Tribal governments working group is not chartered. It provides
12 advice. And there are other groups that have just gone ahead and continue to
13 meet, and if people are comfortable with that, that is an option to me, in my
14 mind.

15 CO-CHAIR COSTLE: It might leave you vulnerable, however, to
16 somewhere down the road somebody suing you and saying you can't do this,
17 because.

18 MS. DASTILLUNG: What would the ramifications be, if there were a
19 suit?

20 CO-CHAIR COSTLE: You just don't know in advance what sort of
21 issues are going to come up and how that might provide somebody who just
22 wanted to be mischievous.

23 CO-CHAIR ALM: Who would they sue, though? Do they sue the
24 Department?

25 CO-CHAIR COSTLE: They would sue the Department, I would think.

26 CO-CHAIR ALM: For taking advice from an unchartered group?

27 CO-CHAIR COSTLE: It has to be thought through, that is all I am
28 saying, that issue.

29 MS. DASTILLUNG: We had talked about having their own umbrella
30 group, and I think maybe that idea ought to be explored a little bit more
31 fully before you go in the one direction.

32 MS. KELLY: We will be talking to OMB. The word is that the
33 Clinton administration wants to reduce these numbers of charter groups, and
34 going to them with 12 or 15 new charters may not work. I mean we may be going
35 against the flow, and that is why this looks so attractive.

1 MS. DASTILLUNG: What if the SSAB's were to send letters and
2 request that they do it, anyway, do you think they would change their mind?

3 MR. KELLY: They may well.

4 MR. SMITH: Cindy, is part of the issue that these groups would
5 require some financial assistance from the Department, so that there is a need
6 to have that flow of financial assistance be on a very legal basis and the
7 things be chartered?

8 MS. KELLY: I don't think that is an issue, no.

9 MR. SMITH: That is not an issue?

10 MS. KELLY: We were looking at using nonprofits and other ways to
11 funnel the money to the groups.

12 CO-CHAIR ALM: Tom?

13 MR. WINSTON: As I see this, it is a marriage of convenience. In
14 Idaho, while I left and had to go to the FFCA meeting, I did read the minutes
15 and I talked to Vicky to get the real story.

16 But it is a marriage of convenience, and I think in a sense we
17 probably ought to call it that. I guess I would like to put on the table for
18 consideration some modification of Bill's action with what our Co-Chair Mr.
19 Costle mentioned. I think that maybe we need to go on record as saying it
20 does need to be a bottoms-up, coming from the SSAB's themselves, and that we
21 are willing to participate, but our preference would be to have the final
22 outcome come from those groups.

23 I think maybe if we are viewed solely as a facilitator with a
24 duration, you know, we are not going to be fighting them for control, in fact
25 we are going to be pushing them to decide for themselves, it may be perceived
26 a little bit more favorably, as well. So I thought that was an excellent
27 suggestion, and we may want to put it in Bill's motion.

28 CO-CHAIR ALM: Ken Korkia is next.

29 MR. KORKIA: I am trying to think of some famous quotes from
30 famous Americans or slogans about patriotism, give me liberty or give me
31 death, or no taxation without representation. I am trying to express what I
32 feel is going to be how we are hoping to portray this as a democratic system.
33 We call these Site-Specific Advisory Boards, but then we are setting up this
34 layer or this barrier between the site and the people that they want to
35 provide advice to by having to funnel it through this organization. It just

1 doesn't make sense to call them a Site-Specific Advisory Board, if they have
2 to go through this loop.

3 So I am very much agreed to the idea that we need to investigate,
4 that there is as problem with the law, and if we are going to impose this
5 problem with the law onto these SSAB's, there is going to be a problem with
6 the SSAB's, and we can't have that. So we need to be creative and try to come
7 up with some other solution, and we need to find a way to provide autonomy to
8 SSAB's. They have no idea and no clue out there in the hinterlands of America
9 that they are going to have to go through this hoop. When they really find
10 out about it, that is where we are going to see people out there chanting
11 slogans, and it is going to create a problem that is going to be
12 insurmountable.

13 So we have to, as Mr. Costle said -- right now, because it is a
14 matter of convenience, that if the recommendations have to go through the
15 EMAC, maybe we can set up a fax machine where it has an automatic cover letter
16 that says please forward to that group, and we could wink at the law and say
17 that we are providing it. I mean we need to be creative in how we can provide
18 assistance and work, because it is not going to work the way we are proposing
19 it right now.

20 CO-CHAIR ALM: Jeff?

21 MR. BRECKEL: Having been involved in working with stakeholders in
22 setting up and conducting two citizen task force advisory groups at Hanford,
23 as well as sitting through 100 years of Keystone meetings, I think one of the
24 key things that became very apparent to me is the relationship between the
25 parties in terms of making these work, these processes work, and perception
26 plays an awfully big role, in my mind.

27 I think that we need to strive to make that SSAB relationship
28 between the stakeholders at the sites, the regulators at the sites and DOE a
29 very close and direct relationship. And I am concerned about the notion that
30 EMAC being perceived as a filter or a barrier or some sort of a procedural
31 impediment in that level of communication.

32 I think in order to get these going, I would support the notion
33 that perhaps EMAC can step in as sort of a temporary facilitator, with again
34 perhaps a more direct umbrella group that could be created that perhaps is
35 more representative directly of the SSAB's themselves. I think it is crucial

1 that we try and get beyond these sort of process things and think about what
2 it is we need to do to maintain I think the key principles that were in the
3 Keystone Report.

4 We keep running up these things where we have never done it this
5 way before, and I think we are talking about a new way of relating to the
6 stakeholders, a new way of involving the people in government, and I think we
7 need to be thinking about new ways of chartering these things, if in fact the
8 old institutions don't work.

9 CO-CHAIR ALM: Glenn Paulson.

10 DR. PAULSON: Just a couple of points: In hindsight, of course,
11 it is unfortunate that the Keystone Report didn't recognize how this issue
12 would play out and, in fact, I gather was misled as to whether these Site-
13 Specific Advisory Boards would have to be Federal advisory committees or not.
14 That is sort of the legacy that we are dealing with, as I understand it.

15 The sensitivities that were discussed by the Committee members who
16 were still present in Idaho -- a number had to go off for other duties -- I
17 think are very well and adequately amplified here today. In the interest of
18 time, I would like to suggest we try to get to some sort of closure. I tried
19 to capture those sensitivities in the letter that I sent to Grumbly, which I
20 think every Committee member has seen, although you probably didn't memorize
21 it.

22 The idea of new institutional arrangements that Jeff just
23 mentioned is a good one, but that is not something that could be worked out
24 very quickly in terms of getting these things up and running, which is a goal
25 that I think we all share around the table. If any of the local SSAB's in
26 fact had funds, this probably wouldn't be so much of a problem. I am not sure
27 that I totally agree with what was said about the role of money in all of
28 this. It seems to me money is important. The DOE is willing to provide the
29 money, but has to do it through some legally sanctioned channel.

30 As somebody mentioned, of course, one of the first things that
31 President Clinton did when he got into office was instruct every agency to
32 drop its number of advisory committees by 20 percent or something -- 30
33 percent. DOE did that, sparing EMAC. You all didn't know what was involved
34 in that. It wasn't a big deal. It did take some of my time, a fair amount of
35 his time.

1 So for us to go in and say our recommendation is to create another
2 15 is not only swimming against perhaps some legal restraints, maybe lawyers
3 could be more flexible, but against the President's constraints. Maybe there
4 is some way to interact with the White House on this, as well. But none of
5 that could happen very fast.

6 If a motion is re-offered and seconded -- and I would be willing
7 to be a seconder -- to create a subcommittee to deal with this important
8 issue, which has many sensitivities to it, I think that would be the way to
9 proceed.

10 CO-CHAIR ALM: Glenn, in listening to everybody, I tried to write
11 out something that is probably convoluted, because there are so many different
12 ideas, but is: "Resolved, that an EMAC Subcommittee would be chartered to
13 discuss with SSAB members the desirability of EMAC acting either as a
14 temporary or a permanent chartering mechanism; Resolved further, that whatever
15 is chosen, EMAC clearly understands the independence of the SSAB's."

16 But the first part would basically be to create a Subcommittee of
17 EMAC, who would basically meet with the SSAB's and look at either possibility
18 of a temporary womb, as you sort of described, Doug. Or if they decide
19 permanent makes sense, this mechanism would also allow that.

20 DR. PAULSON: I will offer that as a motion.

21 MR. CHRISTEAN: Second.

22 CO-CHAIR ALM: Discussion?

23 MR. CHRISTEAN: Mr. Chairman?

24 CO-CHAIR ALM: Jerry?

25 MR. CHRISTEAN: I think it could be put maybe a little more
26 briefly, to get the sense of what we are trying to do. Just three things of
27 what our priorities should be with regard to this question:

28 First of all, I think, number one, get the SSAB's up and running,
29 so that they are performing the function they need to perform. I think we can
30 agree to that. Number two, if we can as a Committee respond to the request of
31 Tom Grumbly in our last meeting, to try to do what we can to help. And number
32 three is, the question arises, what can EMAC do to help.

33 Now, the motion goes to that, but I submit to you that -- and
34 maybe Dick was really on it -- is I really feel in my heart that everybody in
35 this room on our Committee wants to help the SSAB's get up and running. Well,

1 we don't know exactly how that is going to look. We have got legal counsel.
2 I don't think just meeting with the SSAB's is going to solve that problem. I
3 think we need to include General Counsel of DOE, DOE folks, Cindy,
4 representatives of the SSAB's, a committee from our group, and let's get the
5 problem solved.

6 I think if the SSAB's understand that they are up against a
7 Clinton edict, that it is a long, tortuous, a long time before you are able to
8 get up the way you want it, that they would look strongly at an alternative.
9 I will tell you truly, if it is a temporary fix until something can be worked
10 out, that's great. Because what was our objective in the first place? Number
11 one, get the SSAB's going. We are here to help. We are not here to control.
12 Hell, we can't control ourselves.

13 We need another outfit? So I would support the motion, if it is
14 kind of understood in that frame, let's enter into a negotiating mode and
15 let's get the job done. Let's get it done quickly.

16 CO-CHAIR ALM: That was the sense of the motion. It may not have
17 been felicitously worded.

18 Shira, you are next, anyway.

19 MS. FLAX: I want to speak to the point, but I also want to speak
20 to some dynamics that I have noticed here, and that is this is the first topic
21 where the Committee really wants to talk about this topic. I am a little
22 concerned that this discussion is being cut off in the sense of a motion being
23 placed on the table, valid that that motion is. I just want to observe that
24 that has the unintended effect of cutting off the discussion of an issue that,
25 if you see by the cards, this Committee does want to discuss.

26 CO-CHAIR ALM: I will tell you one reason why I threw it out, and
27 that is I didn't want all the discussion to terminate and then throw out a
28 motion. But the motion can be withdrawn, if people have got better ideas. I
29 was just trying to reflect what I heard from a number of the people and let
30 you have further discussion of something concrete.

31 MS. FLAX: In the sense of concrete, yes. There are two agencies
32 of the U.S. Public Health Service that are doing public health work at DOE
33 facilities, and we are trying to set up site-specific public health boards,
34 and we too have faced the FACA issue, and if I might just mention how we are
35 attempting to resolve it.

1 We are resolving it in two phases. One is that we have asked our
2 HHS Secretary to give us authority to form a FACA committee and the authority
3 to delegate the Site-Specific Advisory Boards as FACA committees. In other
4 words, we are going to OMB asking for one FACA committee, not 17 Site-Specific
5 Advisory Boards, and we have the draft charter language that is going to the
6 Secretary. I have it available and we can look at it.

7 The second thing is what we are doing in the interim is we are
8 asking our Site-Specific Advisory Boards, the Federal agencies are asking for
9 advice from them as individuals. Apparently what Federal agencies cannot ask
10 for is consensus advice, and that is the group giving advice to the Federal
11 agency, without that group being a FACA chartered group.

12 So what we are doing in the interim is that we are just saying the
13 words "we want advice from you as individuals." Should the individuals of
14 that group arrive at one recommendation, and that is a consensus
15 recommendation, that is fine. But the Federal agencies cannot ask for that
16 until we have received our FACA charter.

17 CO-CHAIR ALM: Ron Ross?

18 MR. ROSS: We arrived at the same juncture when we started putting
19 together the DOIT committee and basically taking the technologies out to the
20 DOE sites and DOD sites, and we did form also another model. What I am
21 hearing, though, is there is an EPA model, there is a model over in HHS or
22 whatever they call it -- I am sorry, I am not familiar with all the acronyms -
23 - we have a model, and I think there are half a dozen other models.

24 I think the real issue here is one of going back to the
25 principals, as both Bill and Jerry stated them, on both sides. I think,
26 though, what I would suggest is that I would support the idea of going to a
27 sub-group that would take those issues in hand, along with a representative
28 group of the SSAB's and DOE, and bring in the legal beagles to do their deal,
29 too.

30 We went through this our first meeting. I remember that the DOE
31 lawyer came in and went through about an hour or two-hour presentation of what
32 we could and couldn't do, which most of us probably forgot, but essentially
33 the whole gamut of what FACA means.

34 I think, too, that I would very strongly suggest that that sub-
35 group look at this as sort of a holding company with a temporary charter, if

1 you may, to investigate ways to get the job done, so that the independence is
2 retained, and then following Jerry's priority that they then have their
3 independence, also.

4 So I think with some convolution in my comments, what I am
5 suggesting here is that we go ahead and pursue that idea and let the
6 negotiations between those parties that have to take place on a temporary
7 basis to get something done, so that these groups are up and running and do
8 their job as needed.

9 CO-CHAIR ALM: Dennis Bechtel?

10 MR. BECHTEL: I have a couple comments. I think we all are
11 interested in helping Assistant Secretary Grumbly, but I am concerned about
12 the autonomy issue.

13 I have been involved with the development of the SSAB in the
14 Nevada area, and I know that is definitely an issue in Nevada. I think just
15 the perception of perhaps DOE having some control over the local board is of
16 concern.

17 I am just curious, Cindy, has there been any positive responses to
18 the use of EMAC as an umbrella?

19 MS. KELLY: Don, you have been talking to most of the sites, have
20 you heard anything?

21 MR. BECK: I think the most positive thing is they want to see
22 some dialogue going on. Some of them are willing to take a wait and see.
23 Other sites are clearly very worried about it, not wanting anything to do with
24 anything that smacks of an EMAC board. So I think that if we are going to
25 move forward, that we really need some dialogue perhaps with some of the EMAC
26 people and some of the SSAB people and to ferret that out. It may turn out
27 that this option -- I think that there are enough options to direct the
28 dialogue, with the members of this board and our Site-Specific Advisory
29 Boards.

30 MR. BECHTEL: Also, you had mentioned the use of an MOU. Has that
31 been explored with any of the boards of maybe alleviating some of the
32 concerns, or is that just an idea that is --

33 MS. KELLY: That is just an idea. We haven't explored it yet.

34 CO-CHAIR ALM: I think we have gone through the original list of
35 speakers. Let me hit the ones that have raised their placards again. Bill

1 Freudenburg?

2 DR. FREUDENBURG: I would like to offer two modifications, based
3 on the discussion I have heard so far. One, Cindy, you mentioned that one
4 possibility you have is you just set them up and don't try to charter them,
5 and that raises to me the obvious option of dealing with local concerns, by
6 making affiliation with EMAC optional on their part, not ours.

7 So the first modification I am going to offer is a modification of
8 the proposed motion that essentially would say we will offer ourselves to any
9 group that feels like affiliating with us, and doesn't say another word about
10 what happens to those that don't affiliate. So if some try it out and they
11 say, hey, they left us alone, and others feel like joining, that's fine.

12 The other, as a way of trying to get across the basic intent of
13 this Committee, without necessarily causing the lawyers to hold everything up
14 for the next 7 years, would be to resort to that time-honored technique of the
15 "whereas clauses," to get the message across, whereas, the "be it resolved"
16 clauses would be more specific, here is what we plan to do.

17 So if there is support for this after people continue talking
18 about it, what I would propose to is something along these lines: "Whereas,
19 EMAC wants to help facilitate the formation of Site-Specific Advisory Boards;
20 and, whereas, EMAC has a strong commitment to direct communication between the
21 personnel of DOE facilities and the citizens who are their neighbors:
22 Therefore, be it resolved (1) that EMAC expresses its willingness to serve as
23 an umbrella organization, at least on an interim basis, and that local SSAB's
24 be offered the option of affiliating with EMAC as an umbrella organization;
25 and be it resolved (2) that we establish the Subcommittee to work with DOE
26 personnel and representative local citizens to help facilitate the
27 establishment of SSAB's," wherever they may be desired.

28 So it is an elaboration of the earlier motion that tries to --

29 DR. PAULSON: As the offeror of the original motion, I will accept
30 that amendment.

31 CO-CHAIR ALM: Let me withdraw my suggestion and incorporate
32 yours, in favor of yours.

33 MR. CHRISTEAN: I will agree to that.

34 CO-CHAIR ALM: Vicky, you're next.

35 MS. DASTILLUNG: In talking about possibly setting up a

1 subcommittee of this Committee to looking into it, I would offer the
2 suggestion that you ask members of SSAB's if they would like to participate on
3 such a committee, rather than say you have got to come or you aren't part of
4 the thing. It is another example of how you word it, rather than the actual
5 effect.

6 CO-CHAIR ALM: I suggest that we word this over lunch, and then we
7 can read the final wording in our afternoon session. But I think we have got
8 a pretty good sense. The idea is that it is more of a voluntary kind of
9 thing. We would offer ourselves, and they would decide whether or not they
10 wanted to participate.

11 CO-CHAIR COSTLE: We make it clear that we are doing this as a way
12 of facilitating their ability to get their ability to get up and running, and
13 it is perfectly within their rights and responsibilities to choose a different
14 vehicle. In fact, we would encourage them to consider a variety of vehicles
15 and decide on which one suits them the best. I mean it really has got to be
16 their show. We are just here to be a convenient helper, if we can, and we
17 don't want to get in their way.

18 CO-CHAIR ALM: Let me suggest that sometimes on an issue like
19 this, you reach a point where it might be good just to go on and work on this
20 language and then really come back to it in our session later today, to make
21 sure the language is what everybody feels comfortable with. Does that make
22 sense?

23 MR. ROSS: Yes.

24 CO-CHAIR ALM: Jay, do either you or Tad have comments right now
25 that would interfere with our break?

26 DR. SORENSON: No, I just want to say that I was about to say what
27 Vicky did. I just want to reiterate the fact that there are people on this
28 Committee who have done a lot of work. The issue is confidence out there, and
29 if that Subcommittee were made up of the individuals that I have been paying a
30 lot of attention to, I think a good deal of good-will would be created and a
31 lot of problems that we are all afraid of could be handled very easily.

32 CO-CHAIR ALM: Jay, why don't you take leadership with the other
33 members, instead of coming up with some ideas of who would either volunteer
34 and make up our Subcommittee?

35 And Bill, why don't you draft up the language --

1 MR. CHRISTEAN: Mr. Chairman, I want to object to that.

2 CO-CHAIR ALM: Okay.

3 MR. CHRISTEAN: The first meeting of this Subcommittee, with all
4 deference, other people have taken the leadership role in this that have not
5 been enumerated by my colleague, so I object to that suggestion of the Chair.
6 I think the Chair should assume the responsibility for receiving the --

7 CO-CHAIR ALM: All right, all of those who would like to volunteer
8 can hit me over the lunch hour, and then we will discuss that again at the
9 later session.

10 MR. CHRISTEAN: Thank you very much.

11 DR. SORENSON: If I have overlooked anyone, I apologize.

12 MR. CHRISTEAN: I don't think you overlooked anybody, but I think
13 I have a clear idea of what you had in mind.

14 DR. SORENSON: I will talk to you later.

15 CO-CHAIR ALM: I think this is as very good time for about a 10-
16 minute break.

17 [Recess.]

18 CO-CHAIR ALM: Our next presentation will be the environmental
19 research and development process, and Gary Voelker will be making the
20 presentation. Gary is Clyde Frank's Deputy.

21 Gary?

22 MR. VOELKER: When Tom Grumbly first came on board, he gave us, as
23 you all are very much aware, six priorities. The fifth of those priorities
24 was to have a focused technology development program that is focused on our
25 environmental technology needs within the complex, but also in a slightly
26 different variation of the word "focus," focuses the activities within the
27 Department of Energy and makes sure that we involved the best talent in the
28 DOE, the national laboratory complex, private industry, academia, and so on,
29 as we go about taking on these major challenges.

30 By the way, in the interest of time, I will skip some of the pages
31 that are in your handout, but if you have any questions about them, I will be
32 more than happy to answer them.

33 In September of this year, we put together a working group. This
34 working group was chartered with the responsibility of developing a new
35 approach, a new way of managing the technology development activities within

1 environmental restoration and waste management. We were asked to do that by
2 Tom, and we were asked to get back to him in this mid-December time frame,
3 because he is going to be presenting this approach to the Secretary, in
4 essence as soon as we are finished. What I am here to do today is to tell you
5 about the status of that working group and where we stand in our
6 deliberations. In fact, we gave a presentation to Tom yesterday afternoon.

7 The quality model that we are using really centers around the
8 requirements that we make absolutely certain that our technology development
9 activities, both within environmental restoration and waste management, and as
10 many activities throughout the government are focused on our problems, to make
11 sure that we are in support of our customers, i.e., those folks in the
12 environmental restoration and waste management parts of the organization and
13 those in the field, that use our laboratories as effectively as we possibly
14 can, that we integrate these activities across the Department of Energy, and
15 that we do it as quickly as we possibly can.

16 The process that we are using and have almost completed is to
17 first of all take stock of where we stand, to develop the input proposal
18 model, propose several models, evaluate and refine that model, and then
19 document the approach. The products are action plans and strategic plans --
20 and we now have a draft action plan that we can share with you -- to develop
21 focus teams to look at the major problem areas, to put in place this
22 restructured program as quickly as we can. The bottom line of all of this is
23 to enhance the technology commercialization of those activities that we are
24 pursuing.

25 MR. CHRISTEAN: Gary, can I ask a question?

26 MR. VOELKER: Sure.

27 MR. CHRISTEAN: In your setting up, did you also look at what you
28 are going to need at the same time? At the very beginning, did you look at
29 that, here is what we need?

30 MR. VOELKER: We are doing this in two steps. First of all, we
31 have taken look at that, but they very quickly realized that that has got to
32 be an iterative process, because those needs are changing over time. Those
33 needs are changing over time, for several reasons.

34 One is because of the advancements in technology itself, one is
35 because certain records of decisions pass us by. We have already taken note

1 of the problem and it is not really productive at that point in time to
2 further work on the technology development, it is better to focus on something
3 else. As you also know, the actual requirements themselves are changing over
4 time, so we see this as an iterative process.

5 The working group included participants from across the Department
6 of Energy, as well as several others. We had energy efficiency, national
7 laboratories, operations offices, spokesmen from the field, defense programs
8 and energy research, as well as folks from within EM.

9 I must say that they came across many, many very, very difficult
10 issues to deal with, and there are many perspectives that were brought to this
11 working group, and they have been meeting for many, many, many hours over
12 these last three and a half months. So these cost-cutting organizational
13 boundary kinds of issues have been addressed. We really believe that they
14 have taken on the hard choices and have some very good recommendations.

15 MS. DASTILLUNG: What do you mean by respect for positions on that
16 overhead?

17 MR. VOELKER: That is just making absolutely certain that all of
18 the folks are given their fair day and are listened to, and we respect --

19 MS. DASTILLUNG: Their viewpoints?

20 MR. VOELKER: Exactly.

21 MS. DASTILLUNG: Not the position they hold.

22 MR. VOELKER: No, not that, no. Respect in terms of we like you
23 and you are a nice person.

24 The four-step approach that we have is to first of all define the
25 approach, create the focus area management teams -- and I will talk about that
26 in a lot more detail -- to develop strategic plans for each of the major focus
27 areas, and to form implementation teams.

28 A very ambitious goal was given to us by Tom, and that is that we
29 have this entire system in place, so that we can have major impact on the
30 implementation of the fiscal year 1995 programs, programs within energy
31 research, as well as defense programs, as appropriate, of energy efficiency,
32 as appropriate, the national laboratories, private industry, academia, all
33 these activities, to have impact on all of those and be directing them to be
34 focused on our needs beginning by fiscal year 1995.

35 The current situation, as most of us here are very much aware, we

1 believe that it is absolutely essential that advanced technology be brought to
2 bear to our problems, in order for us to be able to achieve our overall
3 program goals at reasonable costs. We have done some internal assessments.
4 We have given presentations to the GAO and the Congressional Budget Office and
5 OTA and others that talked about the potential cost savings that could be
6 accrued by the introduction of advanced technologies. And suffice it to say
7 that there are enormously large numbers that we believe could be saved in all
8 of these major problem areas by the introduction of advanced technologies.

9 Quite candidly, one of the areas that we see the greatest
10 shortcoming has not necessarily to date been the advancements in the
11 technology, but the implementation of those advancements in technology. We
12 seem to be able to get technologies to a certain point in the development
13 process, and they should then be picked up and implemented, and for some
14 reason there seems to be this gap that they keep falling into and are not able
15 to bridge that gap.

16 We want to make sure that this whole new management approach plays
17 very, very close attention to that very specific problem, that research and
18 development that could support our environmental technology needs exists
19 throughout the Department of Energy at fairly substantial funding levels. And
20 that goes back to the idea that Tom has to not only focus on our problems, but
21 for us to become the focus and the leaders in this area throughout the
22 Department, to bring a lot of these other resources to bear on our problem.

23 That stronger ties are needed between the technology development
24 people, both in Headquarters and the field, and let's call them the line
25 folks, our customers, EM-30 and 40 and 60, and that the national laboratories
26 really need to be used more effectively, and this goes back --

27 DR. FREUDENBURG: Gary, before you go away from that one, what is
28 EM-50?

29 MR. VOELKER: Technology development, that's us.

30 DR. FREUDENBURG: Thanks.

31 MR. VOELKER: EM-30 is waste management, and 40 is restoration,
32 and we are 50, technology development.

33 Yes, sir?

34 DR. PAULSON: Are the slices of the pie chart proportional to the
35 environmental research dollars for each of those groups, or is that just a

1 generic representation?

2 MR. VOELKER: No, it is just a generic representation, but I do
3 have some slides later that talk about some actual distributions that are in
4 proportion.

5 As we go about addressing the current situation, this new approach
6 that the working group has come up with looks very closely at making sure that
7 we team with the customers in environmental management. We felt that one of
8 the major reasons the technology was not being implemented was through a lack
9 of communication, a lack of knowledge, a lack of participation in the
10 decision-making process by a large number of people, the regulators that are
11 originally going to accept or reject the technology, the sites and the
12 customers, the program managers, the division directors, the office directors
13 in environmental restoration and waste management who eventually are going to
14 be responsible for implementing the actual technologies and making sure that
15 they get directly in the decision, et cetera.

16 So we felt it was very important that we form teams with the
17 customers and EM, that we focus the technology development activities -- we
18 have already talked about that -- make sure that we have a coordinated
19 management of all scientific and development activities.

20 We feel that there is a very significant amount of work that is
21 going on in energy research and in other places that can be brought to bear on
22 our problems, and in many cases, not to be throwing rocks at those activities,
23 but maybe they are not all that focused and maybe they are being done just to
24 understand some phenomena. But if we were to concentrate them on the
25 understanding of a specific phenomena that we are interested in, we believe in
26 total that would be a significant benefit to us and to the DOE.

27 Involving industry is critical. When you get right down to the
28 bottom line, it is not going to be the universities, it is not going to be the
29 national laboratories, but it is going to be private industry that is going to
30 come to the sites and do the remediation. It is going to be private industry
31 that is going to implement the actual technologies. And, obviously, as a
32 spinoff, we would like to see those technologies applied to other problem
33 areas in private industry and in the international market, very much to the
34 benefit of the U.S. economy. And I have already talked about the regulators.

35 MR. CHRISTEAN: Gary, let me ask a question at this point.

1 MR. VOELKER: Yes, sir.

2 MR. CHRISTEAN: You talked about benefit to the U.S. economy.

3 MR. VOELKER: Right.

4 MR. CHRISTEAN: What protection does DOE afford the American
5 taxpayer that technology developed by DOE in our labs, bought and paid for
6 with American taxpayer dollars, that that technology is for the exclusive
7 benefit of American companies and American workers? In other words, are we
8 passing this stuff all over the world, or what are we doing with that?

9 I ask that, because I attended the tour in Oak Ridge and I asked
10 that question 20 times during that tour of various people I would talk to, and
11 nobody knew of any protection, that anybody could come in and take advantage
12 of that technology.

13 MR. VOELKER: I personally believe that technology is protected to
14 the point that it is not really being made available to our industry, so I
15 don't believe --

16 I am very serious about that. It is not being intentionally
17 protected to keep out our industry, but I don't believe that we are doing as
18 nearly as good a job as we should be doing in making certain that that
19 technology meets the requirements to get it into private industry, to get it
20 commercialized. There are a lot of protections that keep it in the U.S.,
21 however. There are significant protections. We keep title to the patents.

22 The only thing that we do not do a very good job of -- and the
23 main reason is just economics -- we do not do a very good job of filing in
24 foreign countries on the patents, and the reason being it is very, very
25 expensive. It is like \$100,000 per country to file a complicated patent
26 overseas, and it is only the very, very best of those technologies that we
27 file foreign patents for.

28 So the answer is there probably should be more protection from
29 keeping a foreigner, a Japanese or a German, for example, from taking the
30 technology, stealing it, if you will, using the technology overseas.

31 MR. CHRISTEAN: Let me ask you a question, if you know the answer.
32 Do we make it similarly expensive for foreign companies to establish patent
33 protection in this country?

34 MR. VOELKER: Yes. Yes, it is very expensive. That is why kids
35 coming out of school with law degrees and engineering degrees are pulling down

1 something approaching \$100,000 a year right out of school. Patent attorneys
2 are making a lot of money these days. I hope it answered your question.

3 MR. CHRISTEAN: It did.

4 MR. VOELKER: I would love to talk about that issue a lot more,
5 because I think our national laboratories do not have a very good track record
6 in transferring technologies. Our annual revenues coming from licenses and
7 royalties on patents is only about \$2.5 to \$3 million a year total, out of a
8 \$10 billion investment that we make. So we are not doing a very good job, and
9 we believe that these partnerships and this team approach that we are
10 proposing can have a major impact on that.

11 I should also say this is recognized. This is not new to the
12 national laboratories, what I am saying. They know this and great strides are
13 being made to overcome this. A lot of the laboratories are forming technology
14 transfer offices, and those offices are being very, very effective. So I
15 think you are going to see in the next few years some major turn-arounds
16 there.

17 We identified the five major problem areas to focus on in the
18 technology development program. There are others we know. There are some
19 others that may arise. We may have to break some of these problem areas down
20 into sub-categories. But for now, we are going with high-level waste tanks,
21 the 347 or so of them, contaminated soils and groundwater, mixed waste, both
22 true and low-level, landfills and the EM-60 problem of D&D. There very well
23 may be some others that will arise over this.

24 We have also considered having some cost-cutting focus areas.
25 Characterizing and sensing is a good example of that. Robotics is another
26 good example of that, where we would form a management team to focus research
27 and development in those cost-cutting areas.

28 So for each of these five focus areas, what the working group has
29 attempted to do is to define the customers for technologies that are going to
30 address these major problem areas, to define a technology management process,
31 to develop integrated teams that will address them, define a process for
32 overall project implementation, and make certain, as we go about doing this,
33 that we establish those essential linkages and partnerships with stakeholders,
34 with the rest of environmental management, the rest of the Department of
35 Energy and other external parties such as regulators, and make sure we have a

1 feedback loop that can apply the metrics and make certain that we are self-
2 checking ourselves and making sure that we are delivering a product.

3 The overall structure -- and this one chart can speak volumes and
4 volumes, and we can talk about it for a long, long time -- as it turned out,
5 when we met yesterday afternoon with Tom Grumbly, we did talk about it for a
6 long, long time -- in essence, it goes as follows:

7 There are five of these individual focus teams, one for each
8 problem area, again, mixed waste, D&D, et cetera. They are guided by a
9 steering committee that is made up of the Deputy Assistant Secretaries in
10 Environmental Management or their representatives, and also equivalent
11 representatives from Energy Efficiency, Defense Programs and Energy Research.
12 There very well may be other outsiders to come into the steering committee,
13 but we envision them now being at the Deputy Assistant Secretary level within
14 the Department of Energy.

15 DR. FREUDENBURG: Is that your national independent review group,
16 or is that the steering committee?

17 MR. VOELKER: No, that's the steering committee. So they
18 basically provide the overall strategic direction and policy, they develop the
19 priorities from one problem area to another, based on the recommendations that
20 they are going to receive from the individual groups, and they oversee the
21 management teams, just to make sure those management teams are moving
22 smoothly.

23 Off to the side is a standing national independent review group.
24 This is Tom Grumbly's "republic of science." These folks out here he sees as
25 the "republic of science." These are world-known technologists, researchers,
26 people that really do have the scientific and the technical talents to review
27 everything that we are doing and provide advice to Tom Grumbly and to the
28 steering committee, which obviously then feeds down into the management teams
29 and the implementation teams.

30 There would also be ad hoc, as needed, focus area review groups
31 that would essentially be the same kind of function, reviewing what we are
32 doing from a scientific basis, looking at the overall development process
33 itself, feeding us information back as to how we are doing.

34 Another role of this standing national independent review group is
35 to make sure that we have an appropriate role for basic research activities,

1 academic-type research activities. We do believe that in many cases major
2 contributions are going to have to be made by that segment of the research and
3 development community, simply because we are going to have to have some
4 breakthroughs in certain areas, and so this standing group here is to do that
5 type of activity. And I said we didn't have any FACA issues, and I see the
6 word "review" in there -- review, not advise, right?

7 Within the management team, we see it being chaired by a
8 representative from the Office of Technology Development. We have considered,
9 and there will probably be some examples where we will actually co-chair this
10 organization. For example, the Waste Management organization would have a co-
11 chair with Technology Development in a management team that is focusing on
12 mixed waste or the tanks, for example. Those two types of management teams
13 could actually be co-chaired by Technology Development.

14 For all intents and purposes, what this management team does is
15 they provide the guidance and the direction and make the funding decisions, if
16 you will, and the scope decisions for that particular focus area. It has the
17 Technology Development representation, it has the EM-30, 40 or 60 user
18 representation, as appropriate, it has representation from the field, some
19 select technical program managers, for example, from Energy Research or
20 Defense Programs, a representative for stakeholders.

21 Obviously, this whole group is only going to be major 10 or 12
22 people. So we can only have a representative there for the stakeholders. For
23 example, a stakeholder representative in the mixed waste working group may be
24 somebody from the Western Governors' Association DOIT committee. That would
25 be a good example of somebody that could represent stakeholders. There are
26 many, many other, and maybe even some better examples, but that is what we
27 envision.

28 We envision representation from both State and Federal regulatory
29 bodies, and we also anticipate somebody that is matrixed into this team to
30 make absolutely certain that adequate attention is being paid to this very
31 problem that I have spent a lot of time talking about, transferring the
32 technology, getting it commercialized, making sure that it doesn't just get
33 developed up to a point and then, instead of going into the commercial
34 application and implementation, somebody just goes back and does some more
35 research on it and tweaks it a little bit more. It is a major shortcoming of

1 what we feel that we have done to date, is not getting the technologies
2 implemented.

3 We would then, in turn, have individual site coordination groups
4 from each of the sites -- we talked about that -- and last, the implementation
5 team.

6 Probably the biggest issue that we have to deal with is if you
7 just block off this bottom for a second, implementing that activity to guide
8 the distribution of the funding and developing the metrics and the performance
9 criteria, and following technology development as it independently goes to
10 national laboratories, universities and private industry, all by itself, as we
11 see it, is a very major step forward.

12 It is a dramatic step forward, because we have people involved up-
13 front, making them aware of what the technology is that is coming down the
14 pike, what the status is, what its performance is going to be, and they are
15 guiding the criteria that is going to lead to its eventual development.

16 They are setting the standards that they are going to be
17 attempting to meet, and they are going to be able to know, when they are
18 sitting in there in the RFLI, hey, wait a minute, let's not go this way, we've
19 got this vitrification thing-of-a-jig over here that we think is a lot better.
20 We want to see those people involved in that entire development process
21 feeding back into that entire process in both directions.

22 Tom feels very strongly that on the implementation side, where the
23 rubber is really meeting the road, where somebody actually is developing the
24 technology, the principal investigator, that we have an entity that is held
25 accountable for delivering a product that meets the requirements that this
26 management team puts into place.

27 Right now, we have one mechanism to get to private industry, we
28 have one mechanism to get to universities, we have another mechanism to get to
29 national laboratories. And this working group has been struggling and will
30 continue to struggle, but we are going to come to a solution to try to come up
31 with an entity that will integrate that, that will coordinate that, somebody
32 that we can yell at, when the products aren't being delivered, as opposed to
33 these individual pieces. We are calling that the integrating organization.

34 It could be a national laboratory, it could be a combination of a
35 national laboratory and the Federal employees at an operations office, it

1 could be an industrial team, or it could be some combination. But we still
2 want this integrating entity, what Tom wants to call the accountable entity
3 that the management team can turn to and say, damn it, you're not meeting the
4 requirements. Several people have asked Tom, what if they are not delivering?
5 His answer is we fire them. I think that gets the message.

6 DR. PAULSON: Gary, put that one aside, because I have some
7 questions about it, when we get to the discussion.

8 MR. VOELKER: This is just a chart that talks to the idea that
9 integrating this across the Department of Energy is not going to be simple.
10 It is going to take a lot of shared information. We are going to have to have
11 some workshops and symposiums and hand-holding with a lot of the other people.
12 They have been involved. Representatives from Energy Research and Defense
13 Programs have been involved in the national laboratories. Each and every
14 laboratory is represented on the working group. All these people have been
15 involved in developing this process, but it is not over when we develop the
16 process. We are going to continue to have to do a lot of work.

17 The schedule, very ambitious as it is, the bottom line is that by
18 the beginning of fiscal year 1995, we will have the entire thing in place. We
19 believe that very well may be overly ambitious, and the reason is only because
20 this very issue of how we can get through the procedures and the process of
21 writing the solicitation, if you will, the evaluation criteria upon which we
22 will select this accountable organization, this integrating organization. We
23 are not sure we can do that in this time frame, but we are going to for
24 certain have it in place in a couple of the areas.

25 And we have proponents of different ones to start with. For some
26 pretty strong components to start with the tanks, if for no other reason,
27 right now the people in the Technology Development Program and the people in
28 Waste Management already have the beginnings of a management team in place.

29 We already have some groups out there that could be potential
30 integrating organizations, accountable organizations. There are some private
31 industry teams and some M&O contractors and some national laboratory people
32 that all could be working together on that. Bringing in academia, bringing in
33 Energy Research is still something that would have to be worked. But we
34 believe that in at least one or two cases, we can have the implementation
35 teams in place by the beginning of the year.

1 For the remaining three or four, we will for certain have the
2 management team in place, the steering committee in place, the advisory group
3 in place, the ad hocs in place, have all of that in place, and have -- which
4 again in my opinion is a very major step forward. But as far as the
5 implementation is concerned, it would still be basically the management team
6 redirecting and guiding these ongoing activities that are more distributed
7 than without that one integrated entity.

8 In your handout, there are two examples -- and I will not present
9 them here, because I think maybe it would be better for us to just talk about
10 this, than eat up the time going through the rest of the slides. The working
11 group did role-playing. They broke up and pretended I'm the steering group
12 and I'm the management team and I'm the implementation team and I'm the ad
13 hoc, et cetera. They did role-playing and worked through two examples, the
14 contaminated soils and groundwater, what we call contaminant plume, and the
15 mixed waste example.

16 They went back and they role-played through, trying to set up a
17 system that would address the issues in these areas, to see do we really know
18 what the problems are, do we really know what the needs are, how is this going
19 to work, how are we going to involve these stakeholders, how are we going to
20 receive advice from them. They walked through the entire process.

21 Again, I must share with you that one of the greatest difficulties
22 that they came across was this idea of the accountable entity. But they felt
23 very, very good as a working group, after having done this. They felt very
24 confident that it could work. I think it is fair to say that we have very
25 strong endorsement of this throughout EM. We have the Energy Research people
26 very much wanting to participate with us, and we are really excited about it.
27 The next thing we have to do is just go out there and make it happen.

28 That is all I wanted to do, is just bring you up to date on where
29 we stand. Tom is going to be giving a presentation to the Secretary on this
30 very, very soon. We do have a draft action plan that is half an inch thick.
31 I unfortunately only have 10 copies of it, because that is all I could carry
32 on the Metro, but we can certainly make copies available to everybody. I do
33 have 10 copies of it. It is a draft action plan that talks obviously in a lot
34 more detail than I have outlined here, but it follows exactly these very same
35 guidelines.

1 That is all I have to go through here.

2 CO-CHAIR ALM: Bill, you had your placard up first.

3 DR. FREUDENBURG: Gary, first I need to commend you for all the
4 progress that has been made since the first time we got a briefing on this, or
5 at least apparent progress. There really seems to be a lot of forward motion.

6 In spite of the forward motion, though, I get the impression that
7 you have sort of got a couple legs of your three-legged stool in place. I
8 mean clearly there is a major emphasis on the stuff that is close to
9 commercialization, but see if we can speed it along so we can use it faster,
10 and that is a clear focus, and that is the area where accountability is most
11 important, because there you should be able to demand and get accountability.

12 You have also referred some to encouraging more basic research,
13 which is kind of a way of getting stuff into the pipeline in the first place.
14 What I don't really see in there, to somebody who does research for a living,
15 I would see as sort of the middle part of the pipeline, which in your case
16 would be problem-focused research that is, nevertheless, peer reviewed.

17 Maybe this is just my interpretation, but, for example, Pat
18 Whitfield yesterday mentioned the Savannah River site, where they have sort of
19 brought a bunch of entrepreneurs in and said give us some proposals. They got
20 1,100 proposals. I was thrilled. I found out afterwards that the ways in
21 which those 1,100 proposals are being evaluated, which would be a huge task,
22 in any case, is by Westinghouse.

23 Now, presumably the folks at Westinghouse are going to try hard to
24 look just at the technical merits, but if they have the same number of mortal
25 legs that I do, I would be a little surprised if they weren't at least tempted
26 to shade every now and then, you know, like me and every taxpayer in America
27 is going to look at that with respect to at least the appearance of a conflict
28 of interest.

29 Frankly, even if it is a DOE review, even if it had not been
30 subcontracted out to somebody else, there is a question of the extent to which
31 that is really peer review. By peer review, you mean you get the best experts
32 in the relevant fields to look at it. You need a groundwater person to look
33 at groundwater flow models. You need a biotechnology expert to look at the
34 little critters that are supposed to eat up those apples or whatever it
35 happens to be.

1 I don't see a mechanism anywhere in what you have described that
2 would be in fact focused on problems, but peer reviewed.

3 MR. VOELKER: Let me address it. I think one of the reasons that
4 you may not have seen it in this presentation is that at the present time, in
5 our technology development program, at least, is not seen as a deficiency, I
6 am very proud to report.

7 For example, it has to do with working with private industry. We
8 in technology development do not do it that way. We put together a task force
9 about a year and a half ago. It was chaired by the Director of Procurement
10 Policy at the Department of Energy. It had representatives from the field,
11 several other procurement officers, private industry, national laboratories,
12 and so on.

13 And the question there that was addressed to them was how can we
14 best address exactly what you are talking about, that peer-reviewed private
15 industry input into our program. And the recommendations they came back to us
16 with were three-fold: To establish a thing called a Program Research and
17 Development Announcement and a thing called a Research Opportunity
18 Announcement. Let me just briefly tell you about Research Opportunity
19 Announcement, what we call a ROA.

20 A Research Opportunity Announcement is a standing -- you have a
21 standing review group of a technical review group, a business management
22 review group, a cost review group and a peer review group, and they are not
23 M&O contractor representatives. They are reviewed very, very closely for
24 conflict of interest and objectivity, and all four of those groups review all
25 of the proposals.

26 The way it works is we have now essentially taken ourselves out of
27 the unsolicited proposal mode completely. We got out in the Federal Register
28 and the Commerce Business Daily every 6 months and we cite what we consider to
29 be our general research and development needs, and if you want to propose
30 under the ROA, here are the criteria you need to respond to.

31 Those proposals come into a box, and when the box gets filled to a
32 level that is manageable, somewhere probably more than 10 and less than 40, we
33 automatically kick these standing teams into gear and they go lock themselves
34 up in a room and review that entire box full. We also do not let the box just
35 sit there for longer than about 4 months.

1 The review teams go through and make recommendations to the source
2 selection official, and we have funding set aside in each fiscal year to just
3 go after those types of activities.

4 We have received incredible positive feedback on that entire
5 process. We have been cited by peer reviewers, by people that proposed, et
6 cetera, that this is the very best process that they have ever seen for
7 getting good ideas from private industry.

8 We have now awarded about 19 and 21, 40 awards so far. We have a
9 new review just now about to come out. The funding levels range anywhere from
10 \$25,000 to \$180 million multi-year phased contracts.

11 So I think that is one of the things that you have not seen here
12 is because we felt that part of the program is not really needing that quite
13 attention, quite candidly. But I take your point that --

14 DR. FREUDENBURG: Let me follow the point, then. What I hear is
15 that is probably an excellent idea for getting ideas from private industry. I
16 am not so sure that that is good for giving you the link between the very
17 basic research where who knows what you are going to come up with and
18 something that is not technology driven at the other end, but in between,
19 problem focused, but essentially basic research, otherwise.

20 The research that would come from the academic community or
21 sometimes from independent entrepreneurs of some sort who just have an idea.
22 They say, hey, I think this kind of system will work for groundwater
23 contamination, I've never tried it out. You give them a piece of INEL that is
24 not really close to population or to a water supply and let them try it out
25 and see if it works out. I don't see that here.

26 MR. VOELKER: About 20 percent of those ROA awards actually go to
27 DOE sites for testing, and we would hope all of them would eventually go to
28 DOE sites for testing, if they are successful.

29 DR. FREUDENBURG: There are other people who want to talk, but let
30 me reinforce two things. One is that you have made excellent progress, and
31 the other is that I would like to see the Committee working with you to see if
32 we can make further progress, because if anything is going to bring down the
33 cost, this is it.

34 MR. VOELKER: This is it. We feel very, very strongly about this,
35 absolutely. That is why I am here, because I did recognize that very, very

1 early on.

2 CO-CHAIR ALM: Glenn, I think you were next.

3 MR. SJOBLUM: To some extent, I want to ask a question as perhaps
4 a straight-man, as I have done on numerous occasions on this, because I am a
5 great proponent of having the American people get -- not just DOE get, but the
6 American people get the benefit of this technology development.

7 Specifically, how are you incorporating market-pull forces into
8 the process, so that we can solve not only DOE's problems, but provide a basis
9 to solve the world's problems?

10 MR. VOELKER: First of all, we are quite fortunate, because the
11 world's problems are very, very much akin to our problems. So it is not like
12 we have to go out and go out of our way to make certain that we are addressing
13 the rest of the world's problems. I mean, by definition, if you will, right
14 up-front, if we can solve the contaminated soil and groundwater problems that
15 we have at our sites, that technology is going to be applicable to the rest of
16 the industrial sites in this country, as well as Eastern Europe and the former
17 Soviet Union, et cetera, et cetera.

18 Quite candidly, we do not pay near the attention to that non-DOE
19 market pull as we do the DOE market pull, because that is where we are trying
20 to focus the technology. Maybe as a straight-man, I didn't answer it the way
21 you would like me to.

22 There is a \$200 billion market out there. It is going to grow to
23 \$300 billion by the turn of the century. Right now, the United States has 40
24 percent, \$80 billion of that market, of which we only export about 10 percent.
25 Every projection shows that those numbers are dramatically growing, very, very
26 dramatically growing, and I feel very, very confident that the technologies
27 that we would develop here for taking care of the buried waste or the
28 contaminated soils and groundwater, et cetera, are going to be very vitally
29 applicable and would put U.S. industry in a very, very strong and winning
30 position.

31 So the amount of time and effort that we spend making sure that
32 the market pull from the non-DOE problems is there, there is some. Obviously,
33 the stakeholders are going to bring some of that in. Private industry is
34 going to bring some of that in. Private industry many times comes to us for
35 these ideas, because they want multiple applications. They want to help solve

1 our problem and then go off and market that technology some place else. But
2 we don't really go out of our way and expend a lot of resource to make sure
3 that we have that non-DOE market pull taken into account.

4 CO-CHAIR ALM: I am just going through the list, and so far I have
5 got Glenn Paulson, Vicky Dastillung, Jerry Christean, Ken Korkia, Ben Smith
6 and Ken Ayers, in that order.

7 Glenn?

8 DR. PAULSON: Gary, could you go back to the viewgraph called
9 integrated team structure, the one that I asked you to set aside?

10 MR. VOELKER: The block diagram, sure.

11 DR. PAULSON: Put it back up.

12 MR. VOELKER: Everybody has copies and maybe we can just talk from
13 that, because I like to be able to see everybody. If I do this, they turn the
14 lights out.

15 DR. PAULSON: I have three quick questions. One is have you
16 appointed or are you seeking suggestions for both of the groups on the right-
17 hand side, or is it premature?

18 MR. VOELKER: Very much so. In fact, that is an item that came
19 out of the meeting yesterday with Tom, is for the steering committee to meet
20 as soon as possible, if possible this week, and one of its very first actions
21 is to start naming, receiving nominations to recommend to Tom for that group.
22 He is going to have the final say on that.

23 DR. PAULSON: You might want to work through Jim Melillo, because
24 I think there might be several --

25 MR. VOELKER: I would very much appreciate that.

26 DR. PAULSON: -- there are several of us that would nominate him.

27 MR. VOELKER: I would very much appreciate any nominations,
28 because that is going to be a very difficult process for us. I very much
29 appreciate anyone you can put on that.

30 DR. PAULSON: Secondly, what thought have you given at this stage
31 regarding the center box, the management team and the implementation team, in
32 linking to other agencies outside of DOE in this effort? And I have in mind
33 particularly the Defense Department and EPA, although there are a few others.

34 MR. VOELKER: We very definitely intend to do that. In fact, we
35 are shortly going to be establishing a joint office with DOD and EPA

1 initially, and then we are going to be expanding it. It is going to be right
2 physically in L'Enfant right next to us, and we have the people already
3 assigned to go this joint office for this very purpose.

4 This is really only the first layer, the DOE layer, and we very,
5 very definitely want to expand it into DOD, specifically, and we have had
6 several meetings with DOD on this issue. We have talked to Ms. Goodman, we
7 have talked to Camilie. We have met with them. We very much want to have
8 them involved in this and participating in the whole process and make sure we
9 are not duplicating efforts.

10 DR. PAULSON: I am glad to hear that answer.

11 My third question you may not be able to answer right now, but I
12 will just lay it out sort of on an open-ended basis. What would be the
13 appropriate role for this Committee in interacting with this? The Committee
14 has been a strong supporter of OTD basically from the get-go. It has been I
15 think an act of faith, really, at this stage, more than any real deliverables
16 from you all up to now, but research takes time, even applied research takes
17 time.

18 I just wonder what thoughts you or Clyde might have on how we
19 could help. Our current subcommittee structure doesn't really have one that
20 has a technology or a research focus, although a couple of the potential new
21 ones might intersect on specific areas. Maybe there is no answer right now,
22 but I think the Committee would be interested in finding ways to work with you
23 on this.

24 MR. VOELKER: Right off the top of my head, I guess my gut
25 reaction would be it's a shame that you do not have within your subcommittee
26 structure something that focuses on technology and development. I am not very
27 objective, but, as you can imagine, I believe that this is it. We just cannot
28 afford -- I have sat in on enough of the high-level deliberations on what the
29 total cost of this clean-up may be, to know that the numbers that we have
30 floated around to date ain't close, and they are not low.

31 The advance technology is the only thing that is going to allow us
32 to do this within what I consider to be a number that the country can afford.
33 You should be "advising us" to the best of your abilities, spreading the word
34 of what we are doing, helping us, giving us constructive criticism. I think
35 the relationship between what we are doing in technology development and this

1 Committee as a whole and at the subcommittee level should be a very, very
2 active ongoing activity. I think it should be happening all the time.

3 CO-CHAIR ALM: Thank you. Vicky?

4 MS. DASTILLUNG: You had a series of integrated demonstration
5 projects that you talked about before.

6 MR. VOELKER: Right.

7 MS. DASTILLUNG: Does this impact those, or are they still going
8 forward, or --

9 MR. VOELKER: We anticipate them just being rolled right in. They
10 will be reviewed for their -- I'm not sure metrics is the right word, but they
11 would be reviewed to see whether or not they really are contributing to this
12 focus area, are they right, and if they are, they will probably continue as
13 they are. That is a very, very successful way of doing research and
14 development, in our opinion, this total systems approach, looking all the way
15 from sensing characterization, treatment, retrieval, final disposal. The
16 integrated demonstration itself we think is a very, very successful way of
17 developing and demonstrating technologies. What would happen is these
18 integrated demonstrations would just be rolled right into the implementation
19 team.

20 CO-CHAIR ALM: Jerry?

21 MR. CHRISTEAN: Maybe it is not a fair question to ask you, Gary,
22 but I can't help but wonder. You know what they are doing with this material
23 and this problem. We knew this problem existed for a long, long time.

24 MR. VOELKER: When you say material --

25 MR. CHRISTEAN: I am talking about the nuclear clean-up problem.
26 I'm just wondering, and I would imagine I am not alone, why in hell is it that
27 this type of interest in technology to do something about handling this
28 material in a clean-up mode. It is something that occurred a good while ago
29 and there is no answer to that, except say, well, we should have. It just
30 dumb-founds me to think that we have the ability to develop this tremendous
31 technology in terms of nuclear weaponry, and yet apparently there was no
32 thought given to developing technology that handles the residue. Maybe that
33 is one of the reasons why credibility is a big problem with us.

34 MR. VOELKER: I must share with you. I came to this program, I am
35 approaching my 2-year anniversary, and I came here from fossil energy, and

1 before that I worked in conservation, and before that I was working on
2 research and development in the Air Force, and before that I was flying jets
3 off of aircraft carriers.

4 The one thing that has dumb-founded me is exactly that, but not
5 just in the technology and development area that I will share with you. If
6 you look at something like the tanks, when they didn't know what to do with
7 the material when they put it in the first tank -- I shouldn't say they, I
8 should say we -- when we put it into the first tank, that was reasonable, but
9 then the second tank. Even at 326, you would think that maybe -- where are we
10 headed, 347.

11 However, in the conversations that I have had with people that
12 were involved in that process day-to-day, as the day-to-day decisions came to
13 them, we, as reasonable people -- because I am assuming they were -- most of
14 us would probably have made the same decisions. Right now, all we can do is
15 build another tank.

16 Now, somebody said we have got to go put money into technology to
17 fix that problem. Where in hell am I going to get the money? I have this
18 other higher priority. Well, what in hell are we going to do, if we have got
19 to build another tank? So it just happened. I think everybody here would
20 share in that, I am not sure.

21 But I am not sure at this point in time that it really is more
22 important other than something to think about, because right now we do have
23 the tanks, we have problems, technology development is required and we are
24 addressing it and we will move forward, and we have got to tell everybody
25 exactly what we are doing now. We have got to share with the stakeholders, we
26 have got to share with the public, we have got to open up, and certainly the
27 Secretary is moving in that direction, as you know, just recently.

28 CO-CHAIR ALM: Ken?

29 MR. KORKIA: Thank you.

30 Gary, about a year ago, there was a meeting held in Snowmass,
31 Colorado, and it was sponsored by the Colorado Center for Environmental
32 Management, and it brought together representatives from DOE, the Department
33 of Defense and the regulators and interested citizens groups and private
34 industry that was involved in perhaps developing primarily innovative
35 technologies.

1 And there was discussion on one of the points that I found
2 interesting, was the industry representatives were talking about the fact that
3 they didn't really know what the requirements were or what DOE needed for them
4 to go out and start building something to solve a solution, that there was
5 this miscommunication or there wasn't a list that they could look at and say,
6 well, we could develop that, that, that, on down the line.

7 So through this working group that you have put together, are
8 there any other efforts that really have private industry in the loop, so they
9 are also full partners and they know what needs to be developed?

10 MR. VOELKER: We very, very much want them to be a part of the
11 entire process. We have industry playing a major role in the implementation
12 teams. And when I say industry, I don't mean just necessarily an M&O
13 contractor. In fact, I believe there are some times when we may go forward
14 with some of these areas and have minimal involvement with the M&O contractor,
15 would be all non-M&O contractor employees that would be actually doing the
16 research and the implementation. And that is probably more in the
17 environmental restoration area than it is in the waste management area.

18 It is a fair criticism. I think we have not done a very good job
19 of informing them of what our needs are, and we are working at it real hard.
20 We are sending out lots of publications, a lot of things in the Commerce
21 Business Daily and the Federal Register, to inform them in holding workshops
22 and meetings, et cetera. I think the word is getting out.

23 We have an 800 number now that gets about 60 calls a day, and
24 almost 60 percent of them are from just private industry people wanting to
25 know what our needs are, who can I talk to about this idea. So the word is
26 getting out. I think since we are looking at such big budget cuts and
27 potential budget cuts in 1995, I think we are going to change it to a 900
28 number. It will be like a lottery, you know.

29 CO-CHAIR ALM: Ben?

30 MR. SMITH: Gary, I want to congratulate you on your new approach.
31 I can tell there has been a lot of creative thinking that has gone on since we
32 had our panel on technology development down in Oak Ridge. You were there
33 presenting at that time, and I talked about focusing the program, that TD
34 couldn't be all things to all people. Earl Lemming talked about the need for
35 communication. All of us talked about the need for having accountability in

1 the system, where something came out at the end of the pipeline. So you have
2 gone back to the basics and created a business plan approach that I think is
3 going to help you get a lot more out of the dollars invested in this program.

4 I would like to focus in on that site coordination group and just
5 ask one question, while I am congratulating you. I hope that is going to be a
6 mechanism where a small number of regulators at a site that have to look
7 across all of these waste types will have an ability to know what is going on
8 and what is being produced in this national program.

9 On the Oak Ridge site, you know there is a limited number of
10 people that have to make decisions, write records of decisions on clean-up
11 issues, so they need to know what is happening in all these areas, and I
12 hoping that site coordination group is going to be where that happens.

13 MR. VOELKER: That is exactly what we anticipated. We anticipated
14 having regulators up here actually participating on the management team, but
15 those regulators will be more of the Federal EPA level, spreads the word, here
16 is what is happening. Or in a particular area you could have somebody from a
17 region in there, you could possibly have a State regulator, but over here is
18 exactly where we see the specific site regulator folks exactly as you said.
19 They have got to know exactly what is going on.

20 We find time and time again, you sit down and you notice, for
21 example, that they are getting ready to do another pump and treat record of
22 decision, and the people just didn't know that there is a technology to do
23 this. They just didn't know it. And we have to take some blame for that.

24 MR. SMITH: That was Earl's frustration when we met and talked
25 about this in Oak Ridge, that there just wasn't that communication going on,
26 and that will really help, I think. A good job.

27 MR. VOELKER: Thank you.

28 CO-CHAIR ALM: Ken, I think you're next.

29 MR. AYERS: Gary, I would like to echo sentiments of the rest of
30 the group. I think it is really great what you are doing.

31 I have one question, though, and I will use Superfund as an
32 analogy. As you develop these technologies and bring them on line -- and this
33 kind of follows up on what Ben was saying -- what kind of incentives are you
34 going to have or how are you going to get some of your managers and regulators
35 to choose some of these innovative technologies, to take the risk that they

1 might, since all of them have never been demonstrated on a full-scale basis?
2 I know that is one of the major problems Superfund has seen, is the hesitancy
3 of people signing records of decision, to choose basically an unproven or at
4 least a full-scale proven or tested technology. So you thought about that?
5 That is kind of the next step that you --

6 MR. VOELKER: We have thought about that a lot and we figure we
7 are going to have to come at it from about three or four different directions.
8 One direction is to involve those people up-front, so that the known to them
9 becomes perceived as less of a risk, as opposed to all of a sudden it shows up
10 some place in the feasibility study and they say, ah, here it is and it is the
11 first time they have heard of it. But familiarity we would hope would reduce
12 the perception of risk.

13 The second thing is we must change the incentives in the contracts
14 of the people that are actually responsible for the clean-up, to reduce cost.
15 Right now, in many, many cases we have just the opposite. We have a cost-plus
16 award fee contract, but the award fee is not capped. So what happens is, if
17 they do really, really well, they get X percent of an award fee. If they
18 don't do well, they get a lower percentage of award fee.

19 But if they overran 50 percent, they will end up with more award
20 fee. We have got to fix those kinds of contractual arrangements, to make sure
21 that we have got major incentives contractually there -- the new EMAC concept
22 is a good example of that -- to make sure that we have incentives there for
23 the people responsible for the actual remediation itself to do it cheaper.
24 And we believe that by bringing in the advanced technology, that they are
25 going to see that that is the way to do it. So they are going to be willing
26 to take the risk. They are going to be willing to take the risk, and we hope
27 by working with the regulators up-front, that they are going to be willing to
28 take the risk. But time will tell how it will work.

29 MR. AYERS: To follow up on that, though, someone still has to be
30 willing to accept the risk that the technology as applied will not work, and
31 that seems to be the big problem in Superfund, that no one is willing to apply
32 technology that might fail, for fear of going back and asking for more money
33 to redo what was starting to be done the first time or what should have been
34 done the first time. That is the concern that I have.

35 I think technology is the only answer, but it is a real issue that

1 you are going to have to address, is the agency, is DOE willing to take that
2 risk and will you get your managers to accept that kind of risk.

3 MR. VOELKER: We are working on it real hard.

4 CO-CHAIR ALM: Fred Donath?

5 DR. DONATH: Gary, I am certainly heartened by the progress that
6 you describe, and thank you for your presentation.

7 I am, however, very concerned about the direction that technology
8 development seems to be taking at times. We had some presentations at the
9 last meeting at Idaho Falls by experts in environmental clean-up that
10 suggested that there still is a significant change in thinking that is
11 required. Perhaps the words "clean-up" and "retrieval" are in fact part of
12 the problem, because it is a fact that there will be instances in which it
13 will not be possible or it will certainly not be feasible to totally clean up
14 or to retrieve certain types of contamination. That is true of groundwater in
15 many instances, but it is also true of contaminated soils.

16 If that is an assumption that can be made and at least pursued, it
17 leads to a totally different approach to how you deal with a problem. I am
18 wondering what is being done to invoke new approaches and new thoughts for
19 what might be, for lack of a better term, stabilizing contamination and
20 controlling it. Is that being looked at seriously?

21 MR. VOELKER: Absolutely. We are probably spending I guess \$25
22 million or \$30 million on just containment technology alone.

23 I should mention that there is another initiative of Tom's that
24 overlays this whole idea of focusing the technology development, and that is a
25 risk assessment initiative that will probably be the topic of another
26 presentation here to EMAC. It is a major initiative in 1995. We are starting
27 it in 1994, and what we are really trying to do is come up with credible risk
28 assessments for each and every one of our problems, and believe that is going
29 to provide us far, far better information for making wise decisions or wiser
30 decisions on things like land use, which is something you might be talking
31 about now. In the case of contaminated soil and groundwater, you very well
32 may choose no action.

33 Once you have looked at the risks, once you have looked at the
34 costs, once you have debated it with the stakeholders, the conclusion may be
35 that the thing that you do is you simply monitor it or you contain it and

1 monitor it for some period of time while Mother Nature takes care of it. Now,
2 maybe it is going to take Mother Nature 100 years to take care of it, but if
3 it is contained over that period of time and you have appropriate land use,
4 that still may be the very best thing to do.

5 So we definitely do have technologies being developed that support
6 that approach, some of them very successful, by the way.

7 DR. DONATH: I might point out that scientists have for a couple
8 of centuries been studying how Mother Nature takes care of containment, and it
9 might be worthwhile to get some of them involved in addressing these issues.

10 MR. VOELKER: I think they are. We would love to have more of
11 them, if you have got some names.

12 CO-CHAIR ALM: Russell Jim?

13 MR. JIM: Thank you for an excellent presentation. Have you
14 resolved the issue of outdated patent laws which contributed to the difficulty
15 of coordinating DOE and private industry in the development of technology?

16 MR. VOELKER: We haven't really addressed changing the laws. I
17 think we have addressed how we can work within the law to the maximum
18 advantage of private industry, U.S. private industry, I think we really have
19 done that.

20 For example, we grant patent waivers to private industry that
21 works with us in developing technology, we will transfer title, if they cost
22 share, we will transfer title to them of the actual patents that arise from
23 the research and development. I guess the answer is we have not really
24 attempted to go back and change any laws, but we are really trying to optimize
25 within the law our ability to take advantage of the technology transfer.

26 MR. SJOBLUM: Gary, in response to an earlier question, you
27 inferred that the law hasn't been a problem, it has been the past DOE policy
28 to keep the technology to itself. The Stevenson-Widler Act actually does
29 facilitate quite a lot more pro-active things than in fact this Department has
30 been doing, so changing that probably is not needed in order to allow us to
31 make great progress. We need to unleash ourselves from our own restrictions,
32 as usual.

33 MR. VOELKER: There are even some institutional things in there.
34 One of my favorite questions to ask a researcher, after you have asked them
35 what does this particular technology do, and they will very proudly tell you

1 that it measures constituents A, B and C down to the tenth of the minus
2 something peak or something or other, so they tell you about that.

3 Then you ask them what is the competition, and they will tell you
4 the competition is not near that good, the competition is more expensive. You
5 say wow. Then the trick question is what are you going to do next.
6 Unfortunately, far too many of our researchers say, well, I am going to make
7 it work on D, E and F down to another order of magnitude lower level, while in
8 the meantime the market passes them by. Somebody else out there maybe in
9 Japan or Germany finds out about this and takes advantage of it, et cetera.

10 We have just got to institutionally address that. We have got to
11 have our people thinking more technology transfer commercialization, as
12 opposed to giving the next dollar to do some more research. We need to
13 applaud them. We need to provide the incentives for them to want to transfer
14 the technology.

15 CO-CHAIR ALM: Tad?

16 MR. McCALL: Let me join in the applause, Gary, for this concept.
17 I would like to say that I see one place that maybe you are going to need some
18 assistance. You have got outreach, you have got stakeholder involvement, but
19 it has to do with pretty much the development of the technology. One of the
20 things we alluded to was, first of all Ken said what about the fact you are
21 going to get success. We need to look at the cultural standards that are
22 being set, and another related issue is, once you get a success, how do you
23 get that permit in more than one State at a time?

24 What I have suggested by these couple of tangential examples, they
25 don't have to do with technology themselves, but the implications of
26 technology development. It is a need to have another discussion with
27 stakeholders that talks about the implications, implications for the
28 regulators, for example. The regulators have to learn how to view themselves
29 as partners sometimes, as well as regulators. That is a major learning curve.

30 I think to maybe a nonprofit, we might be able to get that
31 educational process for the stakeholders and I would like to talk to you
32 further about that. You are on the right track.

33 MR. VOELKER: It is really fascinating. As an example, we did a
34 demonstration of a series of technologies that we believe would cut the cost
35 maybe 90 percent for characterization, and it was done in Nebraska with the

1 Department of Agriculture with Region V -- Region V or Region VI, I always get
2 them mixed up -- representatives, and strongly endorsed it, wow, this is it,
3 this is going to save us millions and millions of dollars. We went on down
4 the road to the next region, sort of anticipating this will automatically now
5 be picked up. You have got to come to a demo here, I've got to see this, I'm
6 not sure, et cetera, et cetera. So it is an institutional thing that we have
7 to really altogether work on it, again bringing the EPA into this whole thing
8 is the best way to do it.

9 MR. AYERS: Gary, you had an 800 number that you mentioned?

10 MR. VOELKER: Yes.

11 MR. AYERS: But you didn't give it to us.

12 MR. VOELKER: It is -- I have my six priorities memorized, I have
13 my social security number memorized, I have my kids' birthdays memorized, I
14 have my wife's birthday memorized, I have my father's birthday memorized.

15 MR. AYERS: How about if you get it to us?

16 MR. VOELKER: It is in my briefcase, and my briefcase is over
17 against the wall there. If I can walk and do that at the same time, I will
18 get you the number.

19 CO-CHAIR ALM: I was going to ask you one question, and that is
20 what do you think the major one or two physical accomplishments of the program
21 have been? I am talking about actually getting technology developed and out
22 in the field.

23 MR. VOELKER: Maybe if I just -- 1-800-845-2096.

24 I think if we take them one at a time in the area of the problem
25 area of soil and groundwater, I think the work we have done on directional
26 drilling dealing with voltaic organic compounds, the significant number of
27 characterization and sensing technologies we have developed in that area, the
28 ability to tie those all together in what we call an expedited site
29 characterization is a major --

30 CO-CHAIR ALM: These are all being applied?

31 MR. VOELKER: Remember, this is an organization that has been in
32 place for two and a half or three years, so they are all on the verge and they
33 are being applied in some cases. They are being applied at DOE site, but it
34 is not like we have captured 50 percent of the market yet. They are only
35 being introduced commercially.

1 Also on contaminated soil and groundwater, we have done a lot of
2 in situ treatment development that has been very, very successful. The tongue
3 penetrometer that we have developed with the Corps of Engineers and the down-
4 hole sensors that go with that, the ultrasonic drilling technology, a lot of
5 these non-intrusive drilling-type technologies that don't bring anything back
6 up to the surface.

7 In the area of the tanks, that is a tough one, as you can imagine.
8 It has taken 45 years and we haven't really made a hell of a lot of progress.
9 We are putting together the total team, we have come up with an approach, we
10 have formed a partnership with the people in EM-30 that are responsible for
11 it.

12 Probably the biggest advances there are some separations
13 technologies that are going to go up-front in pre-processing the waste. And
14 the other biggest advances there are in robotics. We have made some pretty
15 major advances in robotics. In the analytical laboratory measurement
16 techniques to reduce the cost of that process, we think we have made a lot of
17 progress.

18 I have already talked about expedited site characterization, which
19 we think all by itself, the expedited site characterization technologies we
20 believe will pay back the technology development program budget for the next
21 10 years, the savings from that one technical area all by itself. We don't
22 even try to go after technology, i n't see a 5-to-1 return, it doesn't
23 even make the threshold.

24 In mixed waste, another major problem, a lot of the sensing and
25 characterization technologies they have been very, very successful, being able
26 to look in a drum and know what is in it, without opening it up. We are
27 making progress on waste treatment. The plasma arc furnace types of
28 technology or what we would call robust technologies, those technologies are
29 soon going to be ready to go.

30 D&D, we have gone out with a major procurement to private industry
31 and made 21 awards for those areas, and they range anywhere from waste to
32 strip radionuclides off cement walls and off the floors, to robots that go
33 around, et cetera. We think that those things are going to be very, very
34 valuable in the future.

35 Let's see, what else? We have got mixed waste, D&D, landfills.

1 We had a very major demonstration of some technologies for recovering material
2 from landfills, for characterizing the landfills, everything from ground
3 penetrating radars to ultrasonic type sensors and tying all the different
4 technical data streams together to characterize what is down there.

5 The last list that we put together was 43. In fiscal year 1994,
6 we believe we are going to have 43 technologies that are past the
7 demonstration phase and ready to go commercial, and we believe that we can
8 continue that type of a stream of technologies coming. But the difficulty
9 still remains, bridging that gap and making sure that they don't just get
10 demonstrated and then -- I stand up here and say how great they are, but then
11 nobody from private industry is out there using it. That's the trick.

12 CO-CHAIR ALM: Jay?

13 DR. SORENSON: A follow-up about the importance of site
14 characterization and the effort that you are putting into that is commendable.
15 You mentioned CPT technology. Could you just briefly describe the
16 capabilities of that at this point, the penetrometer?

17 MR. VOELKER: The last test took it down to 321 feet or something
18 like that.

19 DR. SORENSON: I am aware of the depth penetration capability, but
20 what are you able to do? Are you sampling fluids, for example? Do you have a
21 sensitometer that can actually characterize radioactive components, have the
22 ability to determine what the nature of the waste is?

23 MR. VOELKER: They can do it two ways. They can either actually
24 run a fiber optic line down and put sensors at the bottom, or they can take
25 samples, either way. There is this broad, broad array of sensors that are --
26 I am personally not familiar with all the sensors, but it ranges. It is more
27 than 5, but less than 20 different types of sensors they have been able to run
28 down in the tip of the penetrometer to look at what is down there.

29 DR. SORENSON: Do you know if they have the capability to
30 determine radioactive species?

31 MR. VOELKER: Yes. Yes, absolutely. That is not really the
32 function of the penetrometer. It is just the vehicle that gets it down there.
33 You have to put the sensor down there.

34 DR. SORENSON: It is possible to put sensors on that and to read
35 it in situ?

1 MR. VOELKER: That is my understanding, right.
2 DR. SORENSON: Without destroying it?
3 MR. VOELKER: That is my understanding, but I could certainly get
4 you the right people that could answer your question.
5 DR. SORENSON: The fluids could be extracted, obviously, but you
6 might not want to do that with radioactive components.
7 MR. VOELKER: Right.
8 CO-CHAIR ALM: Any other questions or comments to Gary? Yes,
9 Jerry.
10 MR. CHRISTEAN: What percent of the total budget does Office of
11 Technology use?
12 MR. VOELKER: 6.82371.
13 MR. CHRISTEAN: What is the status --
14 MR. VOELKER: We have a goal. Leo Duffy was the first one to
15 raise this number. We felt that 10 percent was an appropriate number. Tom
16 Grumbly has reiterated that. Quite candidly, there are two basic reasons that
17 we have not grown to that number. The first reason was we weren't certain, as
18 a management team, that we could handle that rapid a growth. This is a major,
19 major budget. For an R&D budget, where you are feeding -- we have something
20 like 880 individual projects that are out there, and managing that with the
21 resources that we have with the very rapid growth that we have had to deal
22 with has been a major undertaking.
23 So one of the limitations on us growing any faster has been just
24 that. We believe that this approach is going to dramatically improve that.
25 The GAO has come in a second time to review what we are doing in the way of
26 management and have given us a very, very strong endorsement. They are going
27 to testify to that effect, we believe, when it comes to the FY 1995 budget
28 cycle in the March-April time frame when we go to the hearings.
29 The second thing, obviously, is this conflict between the
30 compliance agreements, regulatory, legally driven, to keep people out of jail,
31 the budget requirements and technology. We have stated the goal to get
32 ourselves to 10 percent. Sometimes setting aside that next \$10 million or
33 that next \$20 million for research and development, that is typically what it
34 comes down to. Do I put that \$20 million into research and development or
35 into technology development, or do I go out of compliance? They are tough,

1 tough decisions to present to an Assistant Secretary.

2 CO-CHAIR ALM: Let me just clarify this. It is 10 percent of --
3 what is the new math, is that the \$6 billion or something?

4 MR. VOELKER: Yes.

5 CO-CHAIR ALM: So \$600 million is your goal?

6 MR. VOELKER: Right.

7 DR. SORENSON: Mr. Chairman, I would just like to submit to you,
8 having said -- you were stating the realities alike, but isn't it almost an
9 irony that the one part of our budget that could help save us money in the
10 long run is the one that we are a little bit -- it seems to me that the
11 priorities should be, at least one of the priorities, we should be trying to
12 get as quick as we can to a point where we are starting to save ourselves,
13 because it --

14 MR. VOELKER: It is OMB I would like to introduce you to.

15 DR. SORENSON: There is a TV commercial that covers it real good,
16 "Pay me now or pay me later."

17 MR. SMITH: I would be more comfortable throwing money at this new
18 plan, than I would the old approach.

19 MR. CHRISTEAN: That's right. That's true.

20 MR. VOELKER: That opinion has been voiced.

21 CO-CHAIR ALM: Bill?

22 DR. FREUDENBURG: Mr. Chairman, this might in fact be a way in
23 which we can help Tom, is that there aren't many areas in which I would be
24 willing to testify on behalf of your plan. No personal offense, there aren't
25 many, but this is clearly one of them. You know, the fact that I am such a
26 critic otherwise would perhaps make that kind of testimony--

27 This is the frankest guy on the Committee.

28 MR. VOELKER: I strongly endorse that.

29 CO-CHAIR ALM: Any other questions? Glen?

30 MR. SJOBLUM: In the area of regulatory barriers or call them
31 institutional barriers on a broader scale, the willingness on the part of the
32 regulator or the company doing the work or whatever, to take the risk of
33 employing new technology, that seems like an area that perhaps, if it gets
34 created as a part of the later Committee business, the environmental
35 restoration cost-benefit Committee might take a look at helping. Clearly, DOE

1 is one voice in the wilderness to try to help move some of the people barriers
2 here, but how do we enlist the broader help from maybe you as individuals and
3 get this onto the national scene?

4 Gary and T.D. has been doing this through the DOIT committee.
5 That is clearly one of the things that they are trying to do to facilitate
6 risk-taking to get technology that is demonstrated and then into place. Gary
7 has pleaded for help in that area, and I would like to second it, that you
8 seriously consider trying to help in that area.

9 MR. VOELKER: Could I respond? Several people have asked some
10 basic questions of how EMAC might be able to help. If I sit back and look
11 around the table here, I think this is the board of directors. What a board
12 of directors, in my estimation, could do to help Tom Grumbly is to help him
13 visualize in his mind or walk through this dilemma of the regulatorally driven
14 requirement, the law, the compliance agreement that is going to cost you this
15 much if you keep going in this direction versus technology development.

16 How can he best make good budget-setting decisions? How can he
17 address that very basic tradeoff, how can he do that? How can he present it
18 to the Congress? How does he present it to OMB and his management, to the
19 Secretary?

20 We are not going to meet this agreement. We are not going to meet
21 this milestone, because we are taking the money and we are putting it into
22 technology development, because -- the whole rationale of that. Any advice
23 that you could give to him or support in making those kinds of decisions I
24 think would be very, very valuable.

25 CO-CHAIR ALM: My sense is that sort of two issues have been
26 raised. One is the aggregate budget level. Is this an adequate budget,
27 considering the responsibilities the Department has? Second of all, how can
28 we encourage DOE to accept more risk than anybody with technology? At least I
29 heard those two issues come up. Are there others that I missed in this
30 session?

31 DR. FREUDENBURG: One other possibility, one of the nice things
32 about the DOIT model is you are working with the Western Governors'
33 Association. This might be a case where the public involvement part of EMAC
34 could help the technical part of EMAC. Because if there is any one principle
35 that we can sort of tell you in our sleep from what folks like Vicky would do,

1 it is that the processes that people have themselves helped develop and they
2 have been able to get their hands on first-hand and see and watch and see how
3 it works are a whole lot more credible. And DOE has a long track record,
4 unfortunately, in the eyes of a lot of the folks who live near the facilities
5 of simply saying we can't meet our deadlines, we need weaker standards, et
6 cetera.

7 Here is a case where there is actually a quid pro quo, though,
8 that says, tell you what, we are having problems meeting this deadline, but we
9 can actually give you something instead which is a better clean-up in the
10 longer run, and we will commit to doing more in 5 years, rather than an almost
11 adequate version today.

12 Again, there we might want to think about that voluntary model
13 that we are talking about for the Site-Specific Advisory Boards, that if the
14 Governor of Washington State likes this idea, and the Governor of Idaho
15 doesn't, that's fine, let's let the folks at Hanford try a few things out in
16 Washington State, if that is okay with Washington State. I don't mean to put
17 you on the spot, Jeff, but that kind of voluntary approach, rather than let's
18 see if we can get all the regulators off our back, I think DOE would find a
19 much more helpful way to go.

20 CO-CHAIR ALM: Let's see, Jeff, if you are on his back.

21 MR. BRECKEL: He is not on my back at all.

22 I think one of the things that concerns me, and we have heard this
23 at several presentations today, is that oftentimes the tradeoffs that we have
24 to make I think are simply stated too simplistically, you know, budget versus
25 compliance, technology development versus compliance agreements. I think
26 there are a host of issues and values to come together in terms of allocating
27 these resources. You know, there may be a variety of reasons that there is a
28 regulatory requirement out there. There may be an environmental or public
29 safety risk that is there, that you simply have to do what you can do with
30 technology available today.

31 I think those sorts of values need to be brought into this
32 process, Gary, and I think by bringing the stakeholders in and broadening that
33 circle, you do that. I think very clearly, from our perspective, we have set
34 milestones in the tri-party agreement that are intended to allow, encourage
35 and facilitate technology development and the recognition that that needs to

1 be done.

2 I guess I would applaud the notion that you open this up, and I
3 think this is a much sounder approach. And I think one of the problems we
4 have had with getting very enthusiastic about DOE's R&D programs in the past
5 is we have never figured out what they were doing, you know, if they were
6 going in the right direction, if the resources were being used well, if the
7 research and development folks that were doing the research and development
8 work were ever tied back to the needs in the field.

9 I think a lot has been done in the last year through the DOIT
10 committee initiative and through what you are doing here to address those
11 sorts of issues, and I think that a number of us who believe that R&D is
12 important will feel more comfortable in terms of working with you to try to
13 push ahead.

14 MR. VOELKER: Thank you. That is all appropriate. This risk
15 assessment initiative very obviously is going to play a role, because very
16 obviously there is urgent risk that we have to deal with and it must be dealt
17 with, and they are going to take precedent over R&D. They must take precedent
18 over R&D. The question is where in the margins do you start making these
19 decisions, that R&D that is not quite as critical and maybe a compliance
20 agreement, a milestone is not quite as critical versus some of the other
21 things we have to do.

22 CO-CHAIR ALM: Ronald?

23 MR. ROSS: A lot of mention has been made of the DOIT effort, and
24 it might be an opportune time to again bring some of that forward. We have
25 made a lot of progress and made a lot of course changes, and there are some
26 things that have been happening within that DOIT project which I am not
27 directly in the loop, if you may. That is another project, because of the
28 size of it, that we have got a full staff assigned to.

29 But a couple of points: First, I think that there are some things
30 that are coming out of the DOIT that Grumbly has looked at and one is outcome
31 orientation of what we are doing, to look at the outcomes and not the process
32 of getting there. In other words, in some of these agreements and some of the
33 things we are doing in DOIT, we are looking for something to be cleaned up and
34 to a certain level, and then the technologies then come forth to say we can do
35 this. Then the process kicks in to evaluate those.

1 Second is that we are implementing and have done some work in the
2 area of involving the stakeholders. I am hearing some of that right around me
3 here, and that is that a very key involvement here is not just the regulator,
4 but the stakeholders, are they willing to allow the risk-taking to occur?

5 The risk assessment, I am real interested in seeing where we go
6 under the next presentation with that, because I think that is key. We need
7 to start addressing problems in some kind of priority order, and I think that
8 is an issue that will be real interesting, but I think that feeds into your
9 technology. As you say, it is going to be a driver.

10 Lastly, following through on something Jeff mentioned, and that is
11 have we looked at following through sort of technology milestones, if you may,
12 in some of the agreements. This is something that we are toying with. It has
13 not been allowed in the past under most compliance agreements, because they
14 are very regulatory driven. But on the political side, I think some of the
15 governors and a lot of the stakeholders I think would be very interested, if
16 we could get into technology milestones, not just money being driven to the
17 technology development program, but actually seeing some milestones achieved,
18 what is on the ground, what can be applied versus the old pump and treat
19 activities.

20 What I am going to do is go back and pull together DOIT's latest
21 report on what its activities are. We are into the technology evaluation
22 phase right now trying to select some projects. That should be done, and
23 there is another meeting coming up I believe in February. Greg will correct
24 me if I am wrong, but I believe it is February, where they will meet and start
25 making selections of actual sites and technology. So as that goes along, I am
26 going to again keep the Committee updated on it.

27 It has been kind of in a period right now where we have been in
28 negotiations, if you may, of what sites, what technologies, that kind of
29 thing. It has been a little bit uninteresting I think to bring here, but I
30 think we are coming to the point now where there are some real products to
31 drop on the table and let you have an opportunity to chew on.

32 With that, I will put that down as some things to carry through.
33 But I think at your end Tom has put into place some of the things that will
34 make the technology program really a focus here, and if this group can help
35 push that along, I think we will.

1 MR. VOELKER: I will just share with the group -- this comment was
2 made earlier about the changes that are taking place -- I have been in the
3 military and the Federal Government for 27-plus years myself, and I have been
4 through maybe five changes or six changes of administration. I actually feel
5 that we are seeing a lot more changes actually implemented than any of the
6 changes that I have seen in the past. I am not a peer political at all. I am
7 absolutely neutral. But as an observant bureaucrat, I note that there are a
8 lot of changes that are taking place in the Department of Energy, not just in
9 our area.

10 CO-CHAIR ALM: Tad, why don't we finish up with you and then we
11 will be ready for lunch.

12 MR. McCALL: You said you tracked two items. There is a third
13 item we have been talking about, and that is the non-technology aspects of
14 getting technology development, and that is what we are talking about, what is
15 the regulator's role and what the community role is. That is another place we
16 can help.

17 I would like to second what Jeff Breckel says. It is not just
18 moving milestones, and Ron has been working with this with the Western
19 Governors'. They are looking at how you deal with your society so that you
20 all are a part of that change.

21 What we have had so far is kind of an ad hoc process, and Western
22 Governors' are trying to take a lead in getting some cross-state consideration
23 and cooperation. I think at this Committee's level might be able to look at
24 the problem of how do you get a generic kind of systematic approach to taking
25 care of these social issues that are related to technology development. That
26 is another way we might be able to help.

27 CO-CHAIR ALM: I think at this point in time, what I would like to
28 do is adjourn for lunch, come back here promptly at 1:30. Tom will be here
29 roughly at about 1:15, and the idea would be Tom would make his presentation,
30 which I think there will be a lot of interest in, and I think all would then
31 like to have some time to discuss some of the items that have come up during
32 the course of this meeting and where we go with them.

33 I know a few of you have got motions you would like to be
34 considered by the Committee, so hopefully we could at least get that in an
35 hour or so, but it might be tight.

1 [Whereupon, at 12:18 p.m., the Committee was in recess, to
2 reconvene at 1:30 p.m., the same day.]

A F T E R N O O N S E S S I O N

[1:22 p.m.]

CO-CHAIR ALM: Tom, we have got as much of the Committee as we can find. Actually, we have got more than enough.

MR. GRUMBLY: Actually, I am flattered that as many of the people came back to the table as they did considering the fact that after I met until about 7:15 last night, I was feeling under the weather and decided I had better go home and get a good night's sleep, so that I could get another 13-hour day today.

I apologize for not being with you last evening. I think if we can do this right -- and I leave this up to the chair -- I would like to get us to the point where our business meetings last one full day that I can be at from the beginning to the end, so that we can really interact on a regular basis.

What I would like to do if it meets with everybody's approval is to describe a little bit the initiative that we are beginning on trying to address and develop a common language on the threats to the public and to the environment that exists at our sites.

I carefully use the word "threats" in lieu of the word "risks" because I recognize that there is a certain freight that comes along with the use of the term "risk." It conjures up all kinds of arcane calculations in people's minds, many of which have little or no basis in scientific fact and which embody lots of assumptions about how we are going to do business.

But if I could take a few minutes, I would like to describe the problem as I see it, the external environment that we are dealing with, the objectives of what it is we want to try to do, and a little bit about the process and timing for what we have in mind.

The problem, to state it very simply, is I believe that all of us, as stakeholders, and particularly the governmental entities, both the Federal Government, the State Governments, and the Indian nations, that we have to deal with, that we often sort of lack what I would call a common language about how to deal with the problems that exist at our sites, that we are currently locked into what I would call the compliance paradigm, which is a good paradigm to be in if you don't have anything to substitute for it because it at least gives us all some way to measure our progress.

1 But I think that any of us who pause to think about the
2 environmental problems that we face -- and, indeed, not only that we face in
3 the Department of Energy, but that we face around environmental protection --
4 understand that it would be good if we could work toward a different language
5 that we would use at least some of the time.

6 That language would be one in which we are actually understanding
7 how we are reducing or eliminating the actual threats to environment and
8 public health that exist at these places and have some way that we can
9 commonly compare what it is that we have all signed up to and all the work
10 that we are doing against the problems that we know exist, and ask ourselves
11 really the very simple question how well does our work match against where we
12 think the problems are, so that we can explain to the public and the technical
13 community the actual progress that we are making against our problems?

14 Now, I think we all know that during the 1980's -- well, I should
15 go back and say during the 1970's, when quantitative risk assessment of a
16 formalistic kind came on the scene, it was initially proposed largely by folks
17 from industry who believed pretty strongly that if one took a quantitative
18 approach to risk, that more often than not that it would reveal that we were
19 doing too much in the way of regulation, although I would ask all of you to
20 remember that really the first public health risk assessments really came out
21 of the Food and Drug Acts of the mid-1930's, that in fact we have been doing
22 risk assessment in one form or another in order to develop our standards, our
23 concentration standards for chemicals since the mid-1930's, that all of those,
24 all of the numbers, whether they are drinking water standards, whether they
25 are the amount of contaminants that we permit in food, whether they are
26 pesticides, that all of those are the results of rudimentary risk assessments
27 that were done by taking, you know, LD-50's studies and extrapolating those
28 results and dividing them by either 100 or 1,000 depending upon whether we
29 were looking at carcinogens or other chemicals.

30 But we obviously had a situation in which quantitative risk
31 assessment became associated I think, first, with people who wanted to reduce
32 the amount of public protection that was involved, and then, you know, evolved
33 into this highly sort of quantitative quantified process that produces various
34 kinds of computer models, some of which is based upon good information and
35 some of which isn't.

1 What I want to try to emphasize is that our objective is not to
2 get locked in that particular paradigm, but rather to try to struggle together
3 with our stakeholders, which importantly includes not only the people around
4 this table and those whom you represent, but also the Congress and the White
5 House, that we need to struggle toward trying to get on a site-by-site basis
6 as good an assessment of the major threats that exist to the public health and
7 the environment as we can, and to do that in a way that it offers at least as
8 much possibility for doing more as it does for doing less, because what I
9 believe that any kind of reasonably straightforward assessment will produce is
10 that it will produce some misallocations or produce the result that we are in
11 fact misallocated in some respects because it almost has to since none of use
12 would sit here today and swear to each other that the way in which we have our
13 resources allocated out on the firing line is a perfect match between the
14 threats and what in fact is going on.

15 But I believe that what we will see in a shift in resources from
16 one project to another, as well as the development of a common language that
17 our regulators and ourselves and the rest of our stakeholders can dialogue
18 about.

19 So I think per se it is a good thing to try to get a reasonably
20 comprehensive and uniform -- although that is a word that is a little too
21 strong -- set of assessments across the sites, assessments that are done by
22 relatively the same kinds of methodologies, that are done with the same kind
23 of process, so that we have some sense of how we are allocating resources from
24 Washington, but I want to emphasize that it is not our objective to try to say
25 let's take risk one and two from Hanford and compare risk three and four at
26 Savannah River, and come up with an interlacing of how we would set
27 priorities.

28 I don't think that in our federal system, that that is a
29 politically feasible way to do business even though the rational resource
30 allocator would say that that is kind of the way we ought to do business, but
31 I don't think that is going to work and I don't think anybody expects us to do
32 that.

33 The external environment is in part being driven by the Congress.
34 Our Energy and Water Appropriations bill this year, agreed to by both the
35 House and the Senate, basically orders us to do an assessment of the risks, to

1 use their term, at all of our sites across the system, and produce a first
2 order evaluation by June 1995.

3 The language is, in my view, sufficiently flexible that we can do
4 it however we think is best. If there were no orders about how this ought to
5 be done, and indeed there was a lot of fuzziness in the language about even
6 the degree of quantification that we have to have, and I am thankful for that.

7 It is also true that the White House, whether it is a Democratic
8 White House or a Republican White House, continues to pursue the idea that we
9 need to have more risk-based regulation, and that is a response to the
10 continuing drumbeat that they receive from both the Congress, as well as from
11 the country at large, particularly the business community, that we are
12 somewhat over-regulated.

13 Now, there is a lot of flexibility about how to do this. So our
14 objective is to produce in 18 months a first order set of assessments -- and I
15 have used the word again "threat" assessments because I think a lot of it is
16 going to be fundamentally based on a public health approach to this where we
17 go out and we really try to examine what are the main routes of exposure to
18 the public for the chemicals and for the radionuclides that we have at our
19 site, that we are not going to be driven excessively by quantification or
20 traditional quantitative risk assessment in this area, but nonetheless, that
21 we are going to produce a first order set of assessments.

22 I say "first order" because I think everybody recognizes that
23 given the time period that we have, that the first thing that we are going to
24 have to do is draw up and vet an awful lot of the data that has already been
25 developed in this system, as well as from other people, but our long-term
26 goal, long term meaning a couple of years after that, is actually to be able
27 to do the kind of scientific assessment which means doing new exposure
28 analysis and actually doing new sampling at our sites that will enable us to
29 come up with a set of threat assessments that are actually driven by data as
30 opposed to by assumptions wherever we can find them.

31 In that respect, what we are envisioning is a project that
32 involves substantial resources. Just to give you a sense of this, in our
33 Fiscal Year '95 budget request, we have a request which has passed the OMB,
34 and I believe will be in the President's budget in February, a \$25 million
35 request to enable us to do a lot of the sampling that we need to do, and we

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1 are organizing our resources in Fiscal Year '94 in order to deal with this
2 problem, as well.

3 The process that at least currently we intend to use is to set up
4 a very small office inside the Department of Energy, three or four
5 professionals maximum. It will be headed, I hope, by Dr. Carol Henry, who is
6 currently the Director of the Office of Health Assessments for the California
7 State Department of Public Health.

8 We have offered the job of Office Director to Carol, and she has
9 accepted, and now we simply have to go through the personnel traces. I think
10 Carol is an outstanding person who understands both the traditional risk
11 assessment side of the house, as well as the public health side of this issue.

12 Fundamentally, however, I think given the time frame that we have,
13 and given our relative lack of expertise inside the Department of Energy, as
14 well as the credibility problems that we have traditionally and probably still
15 have, our fundamental goal is not to have this work done inside the
16 Department, but rather to have it coordinated by some central coordinating
17 institution, probably a not-for-profit, that has not heretofore been a DOE
18 contractor and that would have a strong record in bringing a sense of
19 credibility to this.

20 This central coordinating institution would then reach out to the
21 variety of public health organizations around the country, probably
22 universities that are close to our sites, and would involve at each one of our
23 sites the citizen stakeholders, as well as the State regulators, to get
24 involved in the process by which the threats at the site are assessed, so that
25 we come out of this process with hopefully an agreed-upon set of problems that
26 are not only reasonably technically sound, but that are agreed to by the folks
27 who are actually going to have to live with whatever residual problems exist
28 out into the future.

29 We are not seeing this as a top-down traditional DOE bring in some
30 consulting firm, have them go around and do their thing. This is the
31 opposite. We recognize that this project won't be worth anything or certainly
32 won't be worth anything in terms of the objective that we are trying to
33 achieve -- and again that is to develop a common language or a dialogue by
34 which to discuss our program's direction, and since we have to discuss it with
35 all of you, it wouldn't make much sense if we don't involve all the people who

1 are going to have to be at the table as we actually evolve the numbers or the
2 qualitative definition of what the threats are.

3 So, importantly, this is a project that has to be based upon the
4 best information that we have, but also has to be seen to be based upon the
5 best information by the stakeholders and the other folks that are involved in
6 this process.

7 It is a very ambitious task. It will attempt to learn as much as
8 possible from the mistakes of the past in this area. It will focus not simply
9 on residual cancer risks, but also on other threats to the environment as the
10 stakeholders around each site think about it.

11 It has to sort of balance I think the competing objectives of
12 timeliness, technical credibility. I mean it will have to pass muster with
13 the technical community in order to be useful in the congressional process in
14 particular, and it will also have to pass the credibility test.

15 It is, in my view, a significant departure from certainly what DOE
16 has done in the past. In many ways it may be one of the more significant
17 efforts that has been tried in threat or risk assessment across the Federal
18 Government in the last 10 years.

19 We hope to take advantage of the fact that we have a few very
20 large places in the sense that we can do something that is very difficult for
21 the EPA to do. I mean if you are trying to deal with 3,000 Superfund sites,
22 trying to do this kind of comparison, which is something that people have
23 called for, for a long time, to try to understand really what the problems are
24 in hazardous wastes, it is an overwhelming problem in many ways for the EPA.

25 I think we can capitalize on the fact that we have a few very
26 large places, admittedly, that are cut into a lot of different pieces to try
27 to focus our attention and efforts.

28 Dr. Henry will be onboard in early January. She will be working
29 with Glenn Paulson, excuse me, Glen Sjoblom -- Glenn Paulson, too, no doubt --
30 Glen Sjoblom on our own staff as she sets up her own small staff.

31 We are hoping that we will have a core institution selected very
32 quickly, as well. We intend to pursue it on either a sole source or a limited
33 competition basis, as we have the agreement from the Secretary to go forward
34 on that.

35 We have gotten a couple of proposals so far to be this core

1 institution, but we are not going to make a selection, obviously, until we
2 have a director onboard who can help us make this.

3 I want to emphasize again the involvement of the people around
4 these places is obviously going to be critical to the effort's success. The
5 involvement of the public health community is going to be critical to this
6 initiative's success. The extent to which we are able to separate ourselves
7 essentially from the process, I think will be critical to its success in that
8 we have to understand -- "we" the Department of Energy -- have to understand
9 that in order for this effort to be believable that we can't be perceived to
10 be too associated with it in its day-to-day operations.

11 So, it will test our ability to be independent or to let other
12 people be independent, while at the same time obviously having to take
13 responsibility for substantial public resources that will be invested in this.

14 So, we will have to have a financial accountability mechanism that
15 doesn't leave us open to criticisms that we are simply shoveling large sums of
16 federal money out the door to people who don't know what they are doing,
17 although it is clear that we often spend money as though we don't know what we
18 are doing either, so it is a double-edge problem, I recognize that.

19 Perhaps I should leave it at that. That is kind of the sketch of
20 the project. I suspect that by the next time we get back together there will
21 be a lot more meat on these bones. I regard it as really part of the legacy
22 that I could leave to the Department to try to get a ways down the path at
23 developing the kind of common language that I think we all need to decide
24 whether we are making the right investments in this area over the next couple
25 of decades.

26 Thank you.

27 CO-CHAIR ALM: The first one I saw was Tim Connor.

28 MR. CONNOR: I have two questions. The first is the project that
29 is due in '95 in terms of what Congress is seeking there. I am not saying
30 that there should not be a picture of the current time health risks or risks
31 posed by these waste sites, but obviously, how we prioritize them over the
32 long run. We have to take into account the future of these sites.

33 I just wonder, first of all, in this process, how we account for
34 that. I mean it is one thing to look at the current receptors of risk until
35 we know where they are. We can't predict with much precision what the

1 receptors will be in the future. I think it is particularly prominent at the
2 larger sites, where right now you have some very hazardous areas protected by
3 some very long pathways in the way of buffer zones.

4 If you take Savannah River, for example, right now I don't believe
5 there is a drinking water source closer to Savannah River than Savannah, but
6 once institutional controls are sited, this loss is certainly not impossible,
7 but somebody could be getting their drinking water from Four-Mile Creek, which
8 for the past 30 years has served basically as a waste site.

9 MR. GRUMBLY: I think any set of threat assessments is going to
10 have to lay out very clearly what the future use assumptions are, and I think
11 it will be a multiple scenario, just like the total program cost estimate that
12 the Defense Authorization Committee wants us to do is going to have to lay out
13 really a set of scenarios to give you some sense of what the costs are
14 ultimately likely to be. I think this assessment is going to have to
15 essentially have multiple threats determined by particular kinds of uses.

16 I think that we are fortunate at Hanford that we in fact do have a
17 pretty good idea already about what some of the uses are going to be, and we
18 are going to have to I think involve the stakeholders, whether they are part
19 of the establishing SSABs or whether they are part of some separate exercise
20 that we set up to help us deal with the future use issues at the site, at
21 least for purposes of making assumptions.

22 MR. CONNOR: The second question I have as far as how you see this
23 analysis in the toolbox that communities can use. I am real concerned that
24 how we take highly technical looks like this and put them in the hands of
25 people that can help you in decision making, so you get out of this paradox
26 where you use the tool to come up with your own set of priorities and then go
27 to a stakeholder group that has to look at that and go, gee, how did you get
28 there, and what you haven't done in the meantime is made the tool friendly
29 enough so they can actually go in and understand it. That only heightens the
30 distrust rather than get you where you want to go.

31 MR. GRUMBLY: It is a good point. The only way I know how to deal
32 with any of these kinds of issues is to make sure that the groups that are
33 involved in putting each site's project together -- because in fact we are
34 dealing with a multiplicity of projects -- have a chance to understand right
35 up-front what all the assumptions are and participate in the development of

1 those assumptions, so that if individuals disagree about what those
2 assumptions are, they at least know what they were when they went in, that we
3 have to be pretty transparent or as transparent as we possibly can about
4 whatever quantitative methodology is going to be used, so that there is at
5 least a subset of the people around the table who are involved, who feel
6 ownership to the stakeholders who understand how the mathematics, if there is
7 any mathematics in this, is going to be used.

8 In other words, I guess I see the importance of bringing into each
9 of the stakeholder groups some independent technical assistance that the group
10 feels comfortable with, so that, for example, if you are at the table and I am
11 at the table, and I don't know how to add, I can say, Tim, can you add this up
12 for me, and I have some sense of who you are, and I will trust you to add it
13 right as opposed to simply relying upon some big institution in the sky.

14 But I think this will only work if it is a combination of good
15 substance plus good process that incorporates as many of the lessons as we
16 have learned over the last 15 years about how to build adequate public
17 involvement into these exercises.

18 CO-CHAIR ALM: Tom.

19 MR. WINSTON: Tom, maybe you addressed it, I guess you did
20 briefly, but could you reassure me and others about how this will be used
21 between sites?

22 MR. GRUMBLY: I do not believe it will fundamentally be used
23 between sites.

24 MR. WINSTON: The more clear you can make that from the very
25 outset, I think the more successful this program will be because otherwise
26 there is a vested interest in showing that there is high risk, so that you
27 share that with the budget dialogue.

28 MR. GRUMBLY: I see this, Tom, first of all, I have stated
29 publicly before the Congress already in a couple of forums that I do not
30 believe this should be used between or among sites, at least not now.

31 When I say "at least not now," I guess I don't want to never say
32 never, that says, hey, if this is a successful enterprise, and we all think
33 that this has taken us a ways down the pike, if everybody who has participated
34 thinks ultimately there ought to be some interleaving --

35 MR. WINSTON: The key there is if everyone that is participating -

1 - and I think it DOE makes a statement that they will not use this without the
2 consensus, you know, I think one of the beauties of this is that it is going
3 to be designed by the local community, if you will, or the local stakeholders,
4 but you are going to be getting apples and oranges that really preclude the
5 kind of role that would give you national comparisons.

6 MR. GRUMBLY: I mean I do have to be aware of what I would say the
7 curbs-of-the-road issue, which is I don't want to have -- and you can imagine
8 this -- I don't want to have one site X sort of basically say, well, we want
9 to grab every dollar that is in the federal till, you know, in the worst case
10 circumstance, so we are going to pump the threats that we have at our site, so
11 great, and meanwhile somebody else in the game decides, well, we are going to,
12 you know, just play it straight.

13 So the point of this sort of core institution is to provide an
14 integrating force at least toward some kind of common assumptions that are
15 being built into the process to make sure that you don't get people more than
16 one standard deviation from the mean in this.

17 So, you do have to protect against both of those, I think.

18 MR. WINSTON: Oh, I understand that. The point I would leave you
19 with is that the more you can say that in every single communication on this
20 process, the more it will proceed in the fashion that you want.

21 MR. GRUMBLY: I hear you. I am trying to learn the lessons from
22 the federal facilities process, as well.

23 CO-CHAIR ALM: Bill, you are next.

24 DR. FREUDENBURG: First of all, I commend you once again for a
25 very intelligent approach to the kind of projects you are looking at.

26 I speak, though, as a long-time member of the Society of Risk
27 Analysis, somebody who has published in the risk literature a couple of times,
28 that you have got folks who are modelers and folks who are studiers, and one
29 of the pathologies that we have within our risk analysis community is folks
30 who want to model to death, but not use data.

31 In that connection, we have had several workers who have come
32 through and have suggested that they have had difficulty getting health
33 monitoring started on their sites, and a couple of us, including me, have
34 expressed a lot of interest in some health monitoring data of actual workers.

35 I guess what I would urge is that that is exactly the kind of

1 thing that modelers usually forget because usually we look at inputs and then
2 guess at what the health consequences are going to be. We almost always miss
3 the outputs.

4 I would also suggest that the monitoring, though, ought to look,
5 not just at the workers, but at spouses and offspring, because a lot of the
6 risks that we have missed in the risk analysis community in the past have had
7 to do with either neurological damage of some sort or often reproductive
8 damage of some sort, and it may have something to do with how many of us are
9 men, that we have tended to forget that women are sometimes exposed to risk,
10 too, and the children are.

11 So, if there is a way that we could start yesterday getting more
12 in the way of medical monitoring and holding onto those data a little more
13 effectively than has been the case in the past, and more systematically, I
14 think that would add immeasurably to the credibility there, as well.

15 MR. GRUMBLY: I know that Assistant Secretary O'Toole is very
16 concerned about that, too, so we will be attempting to build that into this
17 process. Indeed, we are developing this together with her, so that she can
18 bring the kind of public health perspective to this that I think needs to be
19 brought to it.

20 CO-CHAIR ALM: Ben, you have had your placard up and down. Do you
21 want to exercise your option?

22 MR. SMITH: I had a concern about how the process might be gained,
23 but the dialogue between Tom Winston and Tom Grumbly sort of helped alleviate
24 some of my concerns there.

25 I would urge Tom, as he designs this process, to keep the
26 centralized controls on strong enough, so that in the future there might be a
27 need or it could be helpful to compare among sites. I don't see that as a
28 really fundamental flaw in this if sites were compared one to the other.

29 MR. GRUMBLY: I look at this simply as a lot of people mistrust us
30 so much that they think the only reason we would be doing this would be so
31 that we could screw down the funding at one place at the expense of another.

32 I just decided right at the beginning that we are going to try to
33 clear that out of the way as much as we can, and then if we produce something
34 that is good, I think people will want to compare that, but I think we have
35 got to get to the point where folks believe what we are doing first before we

1 can do that.

2 CO-CHAIR ALM: Jerry.

3 MR. CHRISTEAN: Tom, I have the honor of representing production
4 workers, and I think one of the things that ought to drive you a little harder
5 to do the very good things you are talking about doing is the miserable record
6 that DOE has in terms of health records for their workers.

7 I am sure that if you had records that you would just think would
8 be an average job of keeping records, medical records, it would be a big help
9 to you in this threat assessment now because you would have a hell of a
10 baseline to work with.

11 The Department has really let down in the past those workers that
12 have done everything, and yet they have been treated terribly with respect to
13 what we are talking about straightening up now. I think if we spend a little
14 time marching forward to the workers that a new day has come, maybe we can
15 help do that.

16 MR. GRUMBLY: I think that is a good point.

17 CO-CHAIR ALM: Shira, you are next.

18 MS. FLAX: First of all, Tom, I really want to compliment you on
19 really being on target with the focus of the sites, the risk assessment, to
20 look at complete exposure pathways is really on the mark, and your
21 prioritizing of sampling, adequate sampling, I mean I just can't tell you how
22 really on the mark that is.

23 If I may just throw out some things just for you to think about,
24 ATSDR has found out that schools of public health are very much oriented still
25 towards infectious diseases. This is just a consideration. You might want to
26 look at the various occupational and environmental clinics, and I will be glad
27 to give you or Jim the number of how you can reach those clinics.

28 The other thing is, is that as part of -- I can't speak to ATSDR -
29 - but one of the things that we might be able to assist you with is physician
30 education because you might find out that if we go in, in partnership with
31 you, begin educating the physicians in the area, and then they set up the
32 medical monitoring, they become part of your medical monitoring where they add
33 questions to medical histories, you know, to routine physical examinations,
34 that might be a good source of information for you.

35 MR. GRUMBLY: That is a good idea.

1 CO-CHAIR ALM: Jay, you are next.

2 DR. SORENSON: It sounds very promising, it does, but I would like
3 to share with you some of the concerns of people that I talk to have, and it
4 is a question really of how a methodology of this sort might be used.

5 It is best caught up in that old joke about the drunk and the lamp
6 post, that the drunk uses the lamp post more for support than illumination,
7 and the fear is that the methodology will be used really to justify things
8 that people are not going to consent to. Then, you will have a problem of
9 perceived inequity.

10 In other words, if you have scientific uncertainty and no consent,
11 you do have inequity and you get into enormous political battles. If you have
12 scientific uncertainty, as you invariably will have with any kind of a
13 methodology of this sort, and you have consent, then you are home free, and
14 you can run down the paradigm if you have scientific uncertainty and no
15 consent, you have got a problem. If you have scientific uncertainty and
16 consent, you are home free.

17 But the problem I think that we are looking at is scientific
18 uncertainty and consent, so essentially, again, it is a question of confidence
19 building. As good as the methodology is and as wise as the steps may be, it
20 is also a question really of reaching out to the public at a very early stage.

21 MR. GRUMBLY: I would be happiest if at each one of these sites
22 where we attempt to do this -- and, by the way, we are obviously not going to
23 try to do this at all 125 places right away that we have around the system
24 because even we don't have the resources to do that. It is going to be
25 focused, first, at the major pieces of the bomb factories, the 14 or 15 or so
26 major operations that we have.

27 If at each place there was one or two significant aha's at the end
28 of the process where people said oh, gee, we didn't think about that, and that
29 caused us to go back and one way or the other to change the regulatory
30 relationships and the shape of the agreements that we had, so that at the end
31 of that we would be able to say, gee, this is really on course, and not only
32 is it on course, but I have got the evidence to demonstrate that it is on
33 course, I think that would be a great outcome in either direction, whether it
34 was, hey, we have been doing too much here, not enough over here, or we should
35 be doing it differently, I think that would be a really, really good outcome.

1 CO-CHAIR ALM: Lynn.

2 DR. ANSPAUGH: I would like to comment that I like very much the
3 process you outlined, and I would also like to note that it is very similar to
4 the advice that this Committee sent your predecessor a year ago on the risk
5 assessment process for the PEIS, where we recommended strongly that the
6 process be very transparent, that the public be fully involved in both the
7 process itself and also the assumptions that go into it.

8 So, I think that this Committee has historically strongly
9 recommended a process very similar to this. My only regret is that this not
10 what is being done for the PEIS.

11 MR. GRUMBLY: Not to open old wounds, but as Glen knows, when I
12 first came on, I agonized, to be honest, about whether we should even continue
13 with the PEIS as it was structured, given the amount of money that we had
14 already invested and given the fact that, to be honest, I see it, as I
15 indicated yesterday, as a decision aid tool rather than a decision making tool
16 primarily. At this point, it seemed to me that we ought to let it kind of
17 continue on its way rather than to drag it out and we should do this as a
18 separate exercise. I hear what you are saying.

19 DR. ANSPAUGH: Just one final comment. I think it is inevitable
20 that you are going to have to do comparisons among the sites. If you don't
21 want to do it, perhaps at some point I think Congress will demand that you do
22 it.

23 MR. GRUMBLY: But I would rather it be a demand poll situation if
24 you know what I mean.

25 CO-CHAIR ALM: Dick.

26 MR. BANGART: More really on the same subject, I guess my view is
27 that you may not avoid having comparisons done whether it is from Congress or
28 other places, but there will be people in organizations doing comparisons.

29 I think the challenge is going to be dealt with by the core
30 institution, as I see it, and I would say that to the extent that core
31 institution can provide some leadership for some sort of suggested
32 standardization among the various sites, I think they will be well served to
33 do that, but there is a broader coordination, as well.

34 EPA is developing standards for clean-up, in part based on some
35 scenarios and risk assessment, theoretical though they may be. My particular

1 agency is trying to coordinate with your agency and EPA in developing our
2 clean-up standards, which will have guidance that will deal with scenarios.

3 So I would challenge your core institution to also keep in touch
4 with other federal agencies that are also actively working in this area, as
5 well.

6 MR. GRUMBLY: I think that is a good point.

7 CO-CHAIR ALM: Glenn Paulson.

8 DR. PAULSON: It is very ambitious, but I like it a lot. I just
9 have one question.

10 As I recall the Committee report in calling for the June 1995
11 report, asks for a report that covers this risk aspect and some other
12 features, as well. Is this effort going to include the other features or is
13 that going to be a separate, internal to DOE-type task, particularly the
14 implications of risks for compliance agreements?

15 MR. SJOBLUM: I can help interpolate. I don't remember the
16 language exactly, but it says that it wants an assessment on each site in
17 conjunction with all the stakeholders of the risks that would be associated
18 with the problems at the site, and as required by the current compliance
19 agreements, the risks associated with conducting the work in accordance with
20 the compliance agreements.

21 So, it brings in worker risks from clean-up, as well as the
22 inherent risks.

23 MR. GRUMBLY: I don't think we ought to be, I mean I think there
24 is no reason to be shy about this. This is the Appropriations Committee that
25 asked us to do this. I mean they obviously think there is a relationship
26 between what we are going to produce here and how much money they want to
27 appropriate to this program, and I think there is -- I don't know if it is a
28 myth or a reality, I wouldn't have any idea at the moment, but the myth that
29 at least exists around the program is that somehow the 70 operative compliance
30 agreements that we have, that there are major disconnects between those
31 agreements and what the real problems are.

32 I think that our challenge, as the Executive Branch, is to develop
33 the information in as neutral a way as we possibly can and lay it on the
34 table, so that we can all have that kind of a debate.

35 I would have no idea right now whether that is true or false or

1 somewhere in between. I know it wouldn't be perfected aligned because human
2 nature says it just can't be perfect, but whether they are far enough apart to
3 make a difference, who knows? We will see.

4 CO-CHAIR ALM: Russell.

5 MR. JIM: Tom, here is some more meat for those bones you asked
6 for.

7 Risk evaluation will continue to be a tool support in EM decision
8 making. It cannot be the ultimate driver for planning because there is no
9 consensus on what risk evaluation is or what its role should be.

10 For example, at the November 30-December 1 DOE meeting on PEIS
11 risk assessment models, it was announced that MEPAS had been chosen as the
12 PEIS risk model, despite its admitted deficiencies. Serious concerns exist
13 about the quality of available input data, model validation, and the scope of
14 risk factors considered by the model.

15 Application of MEPAS in the PEIS will demonstrate the need for
16 better waste characterization data. It will also highlight the inherent
17 problems with MEPAS. Most importantly, it is likely to reinforce stakeholder
18 opposition to a priority-setting methodology which they had no part in
19 developing.

20 The Yakima nation considered risks to include threats to the
21 Yakima culture and to exercise of treaty rights. These issues are much
22 broader than risks to health. In a recent meeting with President Clinton, the
23 Yakima nation stated its position regarding return of Yakima-ceded land at
24 Hanford now considered surplus, possibly by transfer of title to the
25 Department of Interior.

26 This policy decision considered potential risks to health, but
27 also considered potential risks to treaty natural and cultural resources, and
28 as Jim Lapping said, governments and other stakeholders already have priority-
29 setting systems, EM needs an open, transparent priority-setting system which
30 includes risk as one component.

31 MR. GRUMBLY: I agree with that.

32 CO-CHAIR ALM: Tad McCall.

33 MR. McCALL: It is always tough to follow Russell. He is so
34 profound, I always feel so profane.

35 Tom, I, too, join in the applause for this really excellent

1 approach to risk assessment because what we are talking about here is the
2 threat to the community, and you are going to go out and you are going to tell
3 that community you are going to help that community identify what these
4 threats are, so the community can help you make the decisions on how we are
5 going to protect those.

6 That is excellent. I want to commend you on that and also commend
7 you to follow on what Russell is saying, that that isn't the only issue. You
8 are working on developing your land use, your ability to talk to the community
9 about land use. We just saw how you are going to be developing a process for
10 bring new technologies onboard.

11 Also, I think one of the things that we need to focus on a little
12 bit more, all of us, are the cultural issues that are there. That is involved
13 with the Site-Specific Advisory Boards and with the treaty rights and Indian
14 culture.

15 MR. GRUMBLY: I would like to -- I mean to come back to Russell's
16 issue, and I made this plea once before, and I will make it again, and I don't
17 know exactly what the right form is to wrestle with this, and that is to try
18 to find a way during the next three years at least to bridge the gap in our
19 language and culture, so that those of us who are currently more comfortable
20 thinking in terms of risk paradigms can really get more deeply involved in the
21 other kind of way of thinking about this problem, so that when it comes, for
22 example, to deciding what are we going to do with Hanford or what are we going
23 to do with pieces of Idaho, that we really have as good and as clear an
24 understanding of where the Indian nations, that have claims on these places,
25 where they really want to go and at what rate of speed, so that we can stop
26 just acknowledging each other and actually get down into some serious
27 negotiations about how we can make these kinds of changes, because I feel a
28 lot of the time that we all acknowledge that there is a problem, but I don't
29 feel like we ever kind of grapple with it at the level of concreteness that I
30 think we are going to have to grapple with it in order to come to a
31 satisfactory conclusion from all sides.

32 I don't know exactly the right forum to do that in, but I would
33 like to find it.

34 MR. JIM: Well, I appreciate what you are saying, Tom. I, and
35 others I am sure, will do everything we can to accommodate your requests, to

1 write you letters, I don't think you would want to read through that many
2 letters.

3 MR. GRUMBLY: No. I mean I think we need to find a way to hold --
4 I don't know whether to hold a meeting -- but it has to be a well-prepared
5 meeting in which we really have an opportunity to --

6 MR. JIM: I recommended to the chair of the Land Committee and
7 during our Land Committee meeting at breakfast this morning, that perhaps this
8 body and others would like to have a presentation by the Indian nations of
9 this country.

10 MR. GRUMBLY: Absolutely, and I think that should be well prepared
11 in advance, so that we really maximize the possibility that we are actually
12 engaged in two-way communication on these issues.

13 MR. JIM: There is a representative of the National Congress of
14 American Indians in the back there. He is the consultant for the working
15 agreement between NCAI and DOE. He will carry that message on to others.

16 MR. GRUMBLY: All right.

17 MR. McCALL: Just to finish, we are really talking about the
18 community health and community decisions. This is why I caution you it is not
19 just semantics when we talk about renegotiation. After we talked about
20 renegotiation and we had a very constructive iterative process, I talked to a
21 couple of the members from the public community, and they said they were
22 concerned about the threat of renegotiation.

23 So, I would say that we are going to find as we go through this
24 more systematic study of how we protect the community, that we will find as a
25 byproduct of that, or maybe as a goal, that the mechanism we are choosing to
26 protect the community is the wrong mechanism, and when we find that, with this
27 kind of objectivity, we are going to want to change that, and the community
28 will want that change, too.

29 That is what I want to emphasize to you, where renegotiation comes
30 in with these other processes.

31 MR. GRUMBLY: I understand. I just want to keep speaking English,
32 and not --

33 MR. McCALL: And I heard you on that, too, and I realize that my
34 words were too much, too vague. I took at my charter from that, I am going to
35 put renegotiation out front, I am going to say it, but I am going to try and

1 put it in a context which is community protective.

2 MR. GRUMBLY: I hear you, and I want to emphasize again that our
3 objective is to make sure that the dollars that we are spending really are
4 going to protect the health and the environment.

5 I am not interested, and I know Secretary O'Leary is not, we are
6 not interested in getting out of this problem. We are interested in working
7 through it.

8 MR. McCALL: All these programs are demonstrating that.

9 MR. GRUMBLY: Thank you, folks. I think I will leave you to
10 complete your business now.

11 CO-CHAIR ALM: Thank you very much, Tom.

12 MR. GRUMBLY: When we meet again, which I think will be sometime
13 in March, I look forward to getting into an issue-oriented dialogue with you
14 and to making the kind of presentations that will make you feel like you are
15 really participating in the key decisions that are driving this program.

16 MR. CHRISTEAN: Tom, before you leave I would like to say
17 something to you because I was one of the main bitches on this Committee
18 about the fact that DOE really didn't give us the feeling in lots of cases
19 that we were to be taken seriously, and another thing too is that I, speaking
20 for myself, but I know some of my colleagues have said so, too, appreciate
21 very much your willingness to get in there and mix it up.

22 It is a very useful approach on your part. It makes us know that
23 you are up on step, and you keep us that way, and I think that we will prove
24 to you that your program and your way of approaching these things will be of
25 benefit to DOE. Thanks a lot.

26 MR. GRUMBLY: I appreciate that.

27 CO-CHAIR ALM: We have an incredible number of items to cover.
28 Before doing that, I want to see how many of you can stay until 3:30.

29 [Show of hands.]

30 CO-CHAIR ALM: So most of you can. What I would like to do, if
31 that is okay, is to plan to go to 3:30, after which you begin to lose a lot of
32 people, including both your co-chairmen, although that may not be a loss, but
33 nonetheless --

34 CO-CHAIR ALM: Do you have a report of the Health and Safety
35 Subcommittee?

1 MR. KUCERA: Jim Lapping and I are co-chairs, and I believe Jim
2 has two items, and I have one. Just to inform the rest of the Committee that
3 is not on our subcommittee, we held a very brief meeting at our morning break,
4 and then met through lunch.

5 We discussed several items. I will describe one, and then Jim
6 will go into the other two. At our meeting at INEL, Idaho Falls, Idaho, we
7 during the tour got into somewhat of a discussion among several people
8 involving possible deficiencies seismic design for a couple of sensitive
9 facilities which led to the question of whether or not the DOE orders were
10 adequate to deal with certain challenges offered by the natural environment.

11 So, we proposed in our subcommittee and discussed before the full
12 Committee that we would ask for cooperation from DOE staff in providing us
13 with certain documents that our subcommittee might review, to look at whether
14 or not they were adequate in protecting community health and worker safety,
15 and also it goes without saying that protection of the environment is a key.

16 We have gotten cooperation from the Nuclear Regulatory Commission
17 and from DOE staff in providing us documents, and in order to keep this
18 exercise simple, what we did is restrict it to looking at issues like seismic
19 loading and determination of the design basis earthquake, comparing how that
20 is required by NRC versus DOE in its various documents, and there was some
21 illumination of the issue in the reviews that we have done over the past
22 couple of months, we did determine at our luncheon meeting that given that
23 this is in its incipient phase, although it is a very important issue, we
24 probably ought to make sure that we are very careful to say that everything is
25 draft and preliminary, but one of the things that we believed is going to be a
26 conclusion -- I will hold off and use the word "may" though -- that there is
27 the appearance that the DOE orders are unduly complex, difficult to decipher,
28 and suffer from a lack of clarity that the NRC regulations do not suffer from,
29 and perhaps it is the very public process that things have to go through to
30 get in the Code of Federal Regulations, which is where the NRC regulations
31 reside, that may distinguish them from the DOE orders.

32 The bottom line is that we concluded that this might be a
33 significant area that the Subcommittee ought to pursue and continue to report
34 to the full Committee, and all that we ask is that the Department of Energy
35 staff continue to cooperate with the Subcommittee by providing information on

1 the seismic issue, and we wanted to add two other topics, and that would be
2 clean-up levels and worker exposure.

3 I think by exploring in these three different discrete areas, we
4 may be able to find some general themes that would be worthy of the full
5 Committee's consideration. So, all we ask right now is that resources be
6 provided to us to do the work, and we would appreciate the cooperation of the
7 staff.

8 CO-CHAIR ALM: I can see Glen is nodding and putting his hands in
9 his pocket.

10 MR. SJOBLUM: Yes. In fact, I believe also a couple of years ago,
11 the Defense Nuclear Facility Safety Board did some work on this, and perhaps
12 we can get their staff to dig up some of that material.

13 MR. KUCERA: We plan to consult with them also. I guess, finally,
14 I would just like to add that I do not want whatever work we do or the results
15 of our work to be taken as being critical of DOE staff. We are just trying to
16 find out what is out there. That is all we are trying to do.

17 CO-CHAIR ALM: So noted. Let me just go over what the items are
18 in the agenda. I want to go over the series of things we need to talk about
19 EMAC and the SSABs, including the resolution, and then the Committee that
20 would deal with that.

21 We have got to commission a new study group on environmental
22 restoration and cost-benefit technology. Ben Smith has a resolution dealing
23 with charging and its implications for waste minimization.

24 We need to talk about the next meeting. I just had a couple
25 things that Doug like to talk about in terms of getting your feedback on the
26 role of the Committee and how we go about our business, how we plan agendas,
27 et cetera, some of the points that came up.

28 We have got to approve the minutes. We need to get a report on
29 the Land Use Subcommittee, and we need to talk a little bit about the specific
30 charges that came from the Department this time, namely, charges from Jill
31 Lytle and Gary Voelker.

32 So, we have fairly big agendas. Does anybody have any great ideas
33 about what to go on first?

34 MR. KUCERA: Jim needs to provide the other half of our
35 Subcommittee report.

1 CO-CHAIR ALM: I am sorry.

2 MR. LAPPING: Thank you, Mr. Chairman. It will be short. One
3 item raised earlier, a request that there be a critical path established for
4 how OSHA enforcement would be implemented. That is a subject our subgroup
5 would work with the staff on.

6 The other one is Jim Melillo mailed out to all the Committee
7 members -- I don't know if the new co-chair has received it -- a copy of the
8 Contractor Integration Manual that was an ongoing project of our subcommittee,
9 that we would request approval to continue.

10 This was basically done on behalf and focus on DEH, and we would
11 like to continue this report, integrated with EM activities. We need staff
12 support to do that, which we had requested earlier.

13 Those are the two items.

14 CO-CHAIR ALM: Any comment? Glen?

15 MR. SJOBLUM: This item of the path forward to OSHA regulation
16 came up, and I had someone make a call to the Office of Assistant Secretary
17 for Environment Safety & Health, and it is my understanding that a plan for
18 achieving of that is not now in existence, but is in preparation for
19 presentation to Tara O'Toole.

20 We will take it as an action item that when that plan is
21 available, we will provide it to you.

22 CO-CHAIR ALM: Anything else in the Health and Safety
23 Subcommittee?

24 MR. BECHTEL: I could give you a brief report on the Land Use
25 Subcommittee.

26 CO-CHAIR ALM: Good.

27 MR. BECHTEL: We have essentially completed our work. I don't
28 know whether you have seen the draft White Paper that has been produced. I
29 understand that is being used as a policy document for Randy Harris' work.

30 He has produced a document that we are gratified to see utilized a
31 lot of the recommendations that came out of our group, and has produced a
32 document that will be distributed to the actual sites for use.

33 That is in draft form right now. We have held several meetings of
34 the Land Use Subcommittee and discussed a number of the topics and
35 recommendations on that report. To kind of close the loop, we are putting

1 together a letter report that we are summarizing some of our recommendations
2 and also providing some comments to that working draft document that as I
3 understand is going to be out as a final draft, Randy Harris' document, in
4 February.

5 So, we have essentially completed our mission, but if there are
6 other activities that we should be considering with regard to land use, I
7 think the group would like to remain maybe ad hoc and provide advice as
8 needed.

9 CO-CHAIR ALM: Later on, Doug and I are going to ask just for
10 general comments about how the Committee might function in the future, and
11 obviously, one way it could function would be to have some either temporary or
12 permanent subcommittees. I guess we have a lot of temporary subcommittees,
13 some of them might be permanent. That might be a suggestion in that light.

14 Who is the letter going to go to?

15 MR. BECHTEL: It is going to Assistant Secretary Grumbly. He
16 also, by the way, had some comments to our report, and we would like to
17 provide some clarifying comments to that.

18 CO-CHAIR ALM: Very good. Any comment about the Land Use
19 Subcommittee report?

20 Let's go to this question of the umbrella, potential needs for
21 SSABs. We have a resolution here. It is clear that the Committee, I guess
22 spent their time in the bar drafting this, has done a very thorough job.

23 Bill?

24 DR. FREUDENBURG: Well, actually not as thorough a job as we would
25 have done if we had --

26 CO-CHAIR ALM: But you did it in the bar?

27 DR. FREUDENBURG: We did do it in the bar, that helped. But I
28 think if we had had another 15 minutes, we would have been able to get all of
29 the issues resolved a little bit better. In fact, that is going to be my
30 major suggestion for changes in the future, is frankly have longer breaks
31 because we always wind up using the breaks for work anyway, and if we had a
32 little more time, we could have resolved it.

33 Four comments on this. First, there is a typo in that second "And
34 Whereas," that "in" should be taken out.

35 The second is that in the last "And be it further resolved" is

1 specifically where we ran out of steam and time. Jerry, in particular, has a
2 much more specific orientation than this reflects.

3 What I did, since I was hearing different things from different
4 people who were all running off to pay their checks and to hear Tom, is to
5 come up with the most generic wording I possibly could, and I am sure Jerry
6 won't be happy with that.

7 The third thing is that there are a couple of things that are not
8 in the wording explicitly, but are consistent with it and are the intent, and
9 I would very much like to see in the minutes.

10 The first of them is that it is completely open that if the Site-
11 Specific Advisory Boards want to try us out on some interim basis that they
12 choose, be it six months or six minutes, that is fine, too, and if they want
13 to back out at anytime, that is fine. We are not trying to make them commit
14 to us forever.

15 The other is that we talk about "other relevant persons," that
16 includes other organizations, be they States, tribes, EPA organizations,
17 whatever.

18 The final point is one that Jay Sorenson has brought up, is that
19 he would appreciate it, and I would, too, frankly, if when this is
20 communicated with the members of the Site-Specific Advisory Boards, perhaps in
21 your conference telephone calls, that you could list some of the people who
22 are on this Committee and, in fact, were major actors in that whole process,
23 that whole keystone process, trying to set this up, to try to indicate to them
24 that we really are a pretty friendly bunch.

25 Other than that, this is essentially what I read off this morning
26 with the addition of a final "Be it Further Resolved," and the purpose of the
27 final one is that if we really want to underline that we see this as an
28 interim thing, we are trying to help out, et cetera, but we want to make it
29 real clear that we don't see this as something that we want to take over
30 forever and ever, and we would like to see some other alternatives arranged,
31 that we express our support for long-term policy and legislative changes, that
32 is lingo for executive orders, congressional, anything that works, that would
33 simplify the process for establishing Site-Specific Advisory Boards and other
34 mechanisms for regular public input since some of them aren't called Site-
35 Specific Advisory Boards, and we don't want to leave them out in the future.

1 I offer this as a motion of whoever it was that was there in the
2 bar.

3 PARTICIPANT: Second.

4 CO-CHAIR ALM: Second. To have discussion, Tom Winston and then
5 Jay Sorenson.

6 MR. WINSTON: Real quickly, would it be of any merit to include
7 the reference of FACA in here? It is not specifically mentioned, and I guess
8 I would hope that whenever we talk about this, it is primarily, like I said
9 earlier, a marriage of convenience.

10 Maybe it could be included in the third paragraph, "serve as an
11 umbrella organization." I don't know, there is pros and cons to it.

12 DR. FREUDENBURG: I think the feeling at lunch was that all that
13 would do is send extra red flags in front of the FACA lawyers, and the people
14 we want to help already know they have got problems, but if the rest of the
15 Committee feels differently --

16 CO-CHAIR ALM: Unless you feel strongly, it might stay out.

17 MR. WINSTON: I just raise that more as a packaging and the way in
18 which we relay it.

19 DR. FREUDENBURG: I am sure that will be clear in the minutes.

20 CO-CHAIR ALM: Why don't we do that. Jay?

21 DR. SORENSON: I would just like to take the opportunity to clear
22 up a point that came up earlier. I am in favor of a broad-based Committee,
23 with anyone to serve on it who would really like to serve on it.

24 What I am trying to stress is the importance of communicating a
25 message to people who are organizing these advisory boards, and they had some
26 apprehension about coming under an EMAC umbrella.

27 If in the course of informing them of who the committee members
28 are it is clear to them that there are people on this Committee who helped
29 really to design the keystone process, that will send to them a clear message,
30 and I think it will help to build that level of confidence that is needed, and
31 it is the only point that I would like made.

32 I am not trying to recommend a narrowly based committee. It would
33 like it to be as broad as possible. But there are people here who have played
34 a very important role in the creation of a very meaningful public
35 participation process, and everybody should be recognized for that, but some

1 obviously, in the old George Orwell phrase, everybody is equal, but some are
2 more equal than others.

3 CO-CHAIR ALM: Ron?

4 MR. ROSS: Bill, would you mind amending it to include in that
5 first Be it Further Resolved, "with other relevant persons and organizations
6 and organizations"? Did you mean to amend that or add that wording?

7 DR. FREUDENBURG: I was thinking of persons in the legal sense as
8 including the organizations, but I think it would be clearer if we made it
9 "relevant persons and organizations." Does anyone object to that?

10 CO-CHAIR ALM: No.

11 DR. FREUDENBURG: This is in the "Be it Further Resolved"
12 paragraph, right before the last comma.

13 CO-CHAIR ALM: Okay.

14 MR. ROSS: Second, I then assume that includes, as you said,
15 States and EPA and other people that are part of the triparty or interagency
16 agreements.

17 DR. FREUDENBURG: Absolutely.

18 MR. KUCERA: A technical amendment. Correct the name of the
19 Committee.

20 CO-CHAIR ALM: Jerry.

21 MR. CHRISTEAN: I would like to respond to what Jay had to say.
22 He proposed that it is his philosophy that we have committees that we have
23 broad representation. I submit that for any committee be formed, and they
24 want to be broad, that I would almost have to be on it. My colleague and I
25 have straightened out any communication problems that we have had, and I am
26 very grateful for that conversation.

27 I think my objection to the way that my friend and colleague did
28 this last Resolved is, pardon the expression, among my friends who are
29 bureaucrats, is I have a tendency to want to be more specific than overly
30 broad.

31 For example, I think it is very important to send a message that
32 one of the things that we would propose to do as a subcommittee of EMAC is
33 recommend that DOE should petition OMB for support for SSAB charters. That is
34 a very specific thing in addition to all the other things we do.

35 Now, I will grant you without argument that the final result could

1 include that, but I am hopeful that the local committees will have the
2 advantage of seeing this resolution, and I believe the more specific we can
3 be, the better we send the message to them that we not only are willing to
4 help them, but we know how to help them, and I believe that is one of the ways
5 we can help them.

6 It is a hell of a lot quicker if we could get OMB to do something
7 than legislatively, but obviously, maybe it won't work, we have to go
8 legislatively.

9 That is the only point I would make, and I am not hung up on it,
10 and I will support the resolution if it doesn't change.

11 CO-CHAIR COSTLE: As an old bureaucratic hand who has spent hours
12 and hours fighting with OMB, if you can fix this problem without having to go
13 there, do it because all they will do is just send you a zillion questions
14 back and you will be chasing your tail trying to answer their questions rather
15 than getting a result.

16 CO-CHAIR ALM: And you back the resolution either way?

17 MR. CHRISTEAN: Absolutely.

18 CO-CHAIR ALM: Shira?

19 MS. FLAX: I want to thank Bill and his colleagues for doing this.
20 I just want to clarify that in the third paragraph, the umbrella organization
21 that you are talking about is really an umbrella FACA charter, because what
22 the Site-Specific Advisory Boards would be gaining by affiliating themselves
23 with using us as an umbrella is using our FACA charter, and our FACA charter
24 would have to be amended.

25 They would then get the status of Federal Advisory Committees.
26 The other thing is that there is legislation already introduced by Congressman
27 Bill Richardson to actually codify having Site-Specific Advisory Boards, and I
28 believe it does exempt them from the Federal Advisory Committee Act, and not
29 all community groups support that legislation, I just want to let you know.

30 The other thing is, is in the last paragraph, the phrase that we
31 support any changes "that would simplify the process for establishing Site-
32 Specific Advisory Boards," I think, to DOE's credit, they are already doing
33 that. As Cindy showed us, there are two boards already on line or two that
34 will be, two in January, and several coming on line.

35 It is really the process that we are trying to support is giving

1 them Federal Advisory Committee Act status. That is what we are trying to
2 simplify, that is the process we are trying to simplify, the site-specific
3 boards gaining FACA status, not the establishment of Site-Specific Advisory
4 Boards.

5 Then, to go back to what Jerry said, there is a tactic that this
6 Committee might want to encourage DOE to do, and that is to ask to have the
7 authority to delegate the site-specific boards as FACA committees.

8 Again, the way the Public Health Agency is doing is that we are
9 going to OMB with one FACA charter, so we are establishing one FACA committee,
10 and we are asking OMB to give us the authority to, in turn, delegate our site-
11 specific boards as FACA committees.

12 CO-CHAIR ALM: Shira, you obviously have done a lot of work in
13 this area, and I wonder, would you be willing to volunteer for the
14 Subcommittee?

15 MS. FLAX: Sure.

16 CO-CHAIR ALM: I would suggest that this language, this umbrella
17 language to cover an umbrella organization, perhaps rather than spending a lot
18 of time on the language, really getting the ideas you have as part of the
19 subcommittee is probably a more effective way of dealing with what you are
20 talking about. Is that fair?

21 MS. FLAX: That is fine. That is fair.

22 CO-CHAIR ALM: That being the case, I think we have a motion and a
23 second with some minor amendments, I think everybody understands the motion,
24 do they not?

25 All those in favor of the motion, signify by saying "aye."

26 [Chorus of ayes.]

27 CO-CHAIR ALM: Opposed?

28 [No response.]

29 CO-CHAIR ALM: The ayes have it.

30 The second issue is the commissioning of a new committee on
31 Environmental Restoration and Cost-Benefit Technologies.

32 Glenn Paulson, you are going to make the presentation?

33 DR. PAULSON: Yes. I will be brief. There is a history here
34 which I think virtually all the Committee members except the new ones are
35 familiar with.

1 The idea about looking into the issue of cost and effectiveness of
2 environmental restoration technologies, that is, the technologies used by Pat
3 Whitfield's operation and equivalent programs, was one of the high priority
4 tasks that the Committee chose for itself over a period of a couple of
5 meetings with the help of outside facilitation.

6 We began to self-educate ourselves on that by a panel at the last
7 meeting. Unfortunately, some Committee members did not hear that panel
8 because of other DOE obligations, particularly the State representatives, and
9 I guess Russell, as well, was pulled away for that.

10 What I put before you yesterday is a draft charter and scope of
11 work for that Subcommittee. I think the technical content of it is quite
12 straightforward. I would like to highlight the suggestion that I am making
13 that we undertake a departure in this Subcommittee and augment the
14 Subcommittee by non-committee members to work on this subject.

15 I have in mind here identifying some acknowledged experts in the
16 field of Superfund clean-ups, where we would draft, in effect, to add to the
17 Subcommittee. It would imply that there would be fewer Committee members on
18 this Subcommittee than is normally the case, which would help with our common
19 resource question.

20 I have also put forward a very ambitious schedule for this, to
21 have a final report to the full Committee by the end of all of our first terms
22 in office, as it were, by the time of our summer meeting.

23 Now, since I drafted this, I have had the opportunity to talk with
24 Rich Guimond, who as you know has undertaken the task of looking at least at
25 the cost of clean-up technologies as a follow-up to the report that has been
26 described, and he is extremely supportive of this approach and was already
27 coming up with suggestions of information sources data, experts at EPA,
28 outside experts that should be consulted in this process.

29 As you would expect, I have also talked to Pat Whitfield about it.
30 He is also strongly supportive of a committee effort along these lines. I
31 should also mention, by the way, this is not part of the proposed charter and
32 scope, and it is the co-chairman's duty to appoint the Subcommittee, and so
33 on, but my notes tell me that in the past, the following Committee members
34 have expressed an interest in this topic.

35 This may not be a complete list, so anybody who either didn't make

1 it into my notes or who has changed his or her mind might want to tell the co-
2 chairman about that.

3 Jerry Christean was highly interested in this, Vicky Dastillung,
4 Fred Donath, and Ron Ross, as well as myself, have all expressed a high degree
5 of interest in this topic.

6 I would propose the charter and scope of work as a motion at this
7 point.

8 CO-CHAIR ALM: Is there a second?

9 PARTICIPANT: Second.

10 CO-CHAIR ALM: Any discussion? Lynn.

11 DR. ANSPAUGH: I would like to propose a couple of minor
12 modifications. I am concerned about the wording, for example, in Part A, "to
13 reduce releases," I don't think that is the essential feature. In some cases,
14 releases have already occurred, and we are trying to slow down movement. But
15 the central feature that I would suggest is to reduce present and future
16 impacts on public and worker health.

17 DR. PAULSON: That is an excellent amendment, which I accept.

18 DR. ANSPAUGH: Then, on Part B, I would suggest that we change it
19 to read, "the range of costs and cost-benefit ratios."

20 DR. PAULSON: Well, I specifically did not use the word "benefits"
21 in this because within the time frame of the Committee's first two-year
22 charter, I don't know that we could make much progress on cost-benefit ratios.
23 That is why it is not in there.

24 DR. ANSPAUGH: I understand.

25 DR. PAULSON: So, I would not accept that amendment.

26 DR. ANSPAUGH: I understand the problem. If we could agree that
27 the analysis be structured to facilitate cost-benefit ratios in some future
28 time, I would be happy.

29 DR. PAULSON: I would accept that as the sense behind the motion.

30 CO-CHAIR ALM: Any further comments? Bill.

31 DR. FREUDENBURG: When you are referring to broad categories of
32 contemporary technologies, I take it that includes bioremediation as opposed
33 to something else.

34 DR. PAULSON: Yes.

35 DR. FREUDENBURG: Or in addition to. The other question is some

1 of the technologies concerned are social technologies more than hardware
2 technologies as in contracting alternatives, organization incentives, et
3 cetera. Is that included within the scope of your intended review?

4 DR. PAULSON: Not as I had envisioned it.

5 DR. FREUDENBURG: It is a different category, but we may want to
6 consider either modifying this or doing a similar thing in terms of looking at
7 management effectiveness, and I guess I will support your motion now if a
8 couple of months from now you will support my motion that we try to do
9 something like this and looking at management effectiveness.

10 DR. PAULSON: Well, the management theme was another high priority
11 theme selected by the Committee, and I saw that theme for which we don't have
12 a proposal on the table as the way to capture those.

13 DR. FREUDENBURG: Okay.

14 DR. PAULSON: I mean I am a technologist, at least originally, and
15 so I had this confined to being technologies control, containment, treatment
16 type technologies rather than I will say institutional type technologies.

17 DR. FREUDENBURG: The final question, Glenn, is you also seem to
18 have this focused sort of what I would call the end of the funnel rather than,
19 you know, new research on groundwater migration patterns. Is that
20 intentional?

21 DR. PAULSON: I meant the phrase "broad categories of contemporary
22 technologies" to include assessment technologies, monitoring, evaluation, and
23 so on, as well as.

24 DR. FREUDENBURG: So if John Cherry needs more money for his
25 groundwater research, for example, that might be one of the things that would
26 get looked at?

27 DR. PAULSON: Actually, John is rolling in money, he doesn't need
28 any, but yes, in principle.

29 CO-CHAIR ALM: Vicky?

30 MS. DASTILLUNG: I just had a question on the last sentence. You
31 talked about bringing in outside individuals to be members of the
32 Subcommittee. Would they be voting members?

33 DR. PAULSON: Of the Subcommittee, yes, they would be full parties
34 to the Subcommittee deliberations. This, by the way, is a standard technique
35 used by other groups to augment the resource base of an official committee,

1 the Secretary's Advisory Board, for instance, which I have been on in the
2 past.

3 MS. DASTILLUNG: They would be unpaid?

4 DR. PAULSON: They would be unpaid. They would serve on the same
5 basis as the other Committee members. Expenses would be covered, but no
6 payment. But in that advisory board, for example, the public trust and
7 confidence report, which has often been mentioned in this group, was done by a
8 subcommittee of that board that had I think three members of the Secretary's
9 board on it and five or six others, so it was a large subcommittee that got
10 that job done, but with only a small portion of it being drawn from the parent
11 committee.

12 Again, it is a resource question. If this is adopted here and it
13 works, it would allow this Committee with its membership to spring off more
14 subcommittees per unit of time without straining the Committee members to the
15 extent that they are now strained.

16 MS. DASTILLUNG: But in the Subcommittee, they would bring any
17 recommendations to the full Committee.

18 DR. PAULSON: Oh, yes.

19 MS. DASTILLUNG: So there would be another layer before it went
20 out as advice, right?

21 DR. PAULSON: All the procedures that we have adopted about how
22 subcommittees report to the full Committee would be completely unchanged by
23 this. It is exactly the same.

24 CO-CHAIR ALM: Any other questions?

25 MR. SJOBLUM: I just wanted to remark that this is in accordance
26 with FACA, and this is fully allowed and been practiced in other agencies, as
27 well as DOE.

28 PARTICIPANT: Question.

29 CO-CHAIR ALM: Question. All those in favor, signify by saying
30 "aye."

31 [Chorus of ayes.]

32 CO-CHAIR ALM: Opposed, nay.

33 [No response.]

34 CO-CHAIR ALM: The ayes have it.

35 Let me mention one thing before we begin losing anybody else, and

1 that is that Doug and I have talked to Tom and others about how the Committee
2 will operate, and I think it is really important that we get all of your
3 views, at least those of you that would like to make written comments about
4 how we ought to operate, and that will save a substantial amount of time in
5 the next meeting for talking about that issue.

6 Doug, what is your address?

7 CO-CHAIR COSTLE: Actually, if you get it to Glen, he will get it
8 to me, but let me also give you my address in case you don't have it from the
9 book. It is RR No. 2, Box 480, Woodstock, Vermont, and the zip code is 05091.
10 The telephone number is (802) 457-3852.

11 Now, what is yours, Al?

12 CO-CHAIR ALM: My work address is probably the easiest place to
13 send it. It is 1710 Goodridge Drive, McLean, Virginia 22102. My phone
14 number is (703) 821-4530, and the fax is (703) 448-3745.

15 I am told that all this is in the briefing book.

16 MR. CHRISTEAN: Mr. Chairman, may I offer a comment or a question
17 more than a comment. Obviously, we have been set up as a committee. We have
18 subcommittees. Is the reason that we have to reorganize this Committee after
19 18 months is because we have two new co-chairs?

20 It seems like to me it is like, well, now, we are the chairmen,
21 and you have got to change, so suggest to us how you want to do it. I would
22 like to have you explain to me, you know.

23 CO-CHAIR ALM: I don't think we are changing at all. I think what
24 we have got is a new Assistant Secretary who is interested and what we
25 basically would like to do is really get your views. Tom has got some views
26 about how he would like to run the Committee, what we are trying to get is
27 your views, and to make sure the two of those converge.

28 MR. CHRISTEAN: Well, let me make a suggestion to you.

29 CO-CHAIR COSTLE: I could add a couple of other thoughts, Jerry,
30 so that you react with the benefit of a candid assessment. Right now the
31 price of participation is relevance. That is the bottom line.

32 So, it means that our agenda really has to be one that Tom signs
33 on to, as well, which means we have got to interact with him and we have got
34 to have our own agenda. One of the things that Al and I were quite specific
35 with Tom about was wanting to think longer term about the evolution of this

1 effort, because obviously, this job is not going to be done in a year or two
2 years, three years, or five years.

3 There is a sense that there are some really useful precedents that
4 this Committee is already establishing that we might want to capture and
5 institutionalize going forward.

6 There are certain deliverables that we have got to wrestle with
7 right now. The PEIS is one that clearly we were set up to deal with, and we
8 have to make sure that we complete those things that we are really committed
9 to in terms of where we are right now, because the reality is that we will
10 have to be rechartered next summer just because of the time clock and the
11 calendar of the statute.

12 So, what we would like to do is be able to go back and make some
13 thoughtful recommendations to Tom in the spring about that rechartering, and
14 so what we kind of want to do is get everybody thinking about that, so that we
15 can include that in our discussions going forward and we can make some
16 recommendations to him. That is basically the bottom line.

17 MR. CHRISTEAN: Glen, didn't our charter provide for continuation?

18 MR. SJOBLUM: Yes. The charter identifies the PEIS and any other
19 projects that the Assistant Secretary asks the Committee to do, and it is a
20 very broad charter.

21 There are two dates really involved relative to this, and one is
22 that the charter itself is up January 15th. The membership was chosen through
23 an outreach process, and you actually as members began as members of this
24 Committee in June, I believe it was, just prior to the first meeting.

25 So, we have actually got a rechartering package nearing completion
26 within the Department, that we hope to be able to have run through OMB,
27 through Mr. Dean over at I believe it is the GSA, and then through the Federal
28 Register announcement that has to go in place, so that we can have a
29 continuity of charter.

30 Inasmuch as it is a broad charter, I don't believe it precludes
31 any of the things that have been contemplated. We are adding language to
32 cover the SSAB umbrella, although obviously, we don't have that nailed down
33 yet, but other than that, it seems to be, in terms of the Committee
34 membership, they were all appointed as of that date in June for two-year
35 memberships, so that gives plenty of time for us to consider the future in

1 terms of the continuity of membership.

2 CO-CHAIR COSTLE: I think, to add another thought to this, and
3 this is really in the nature of food for thought really, is we probably ought
4 to be thinking in terms of the long-term needs of this program for organized
5 access to outside advice and counsel of all kinds, not just policy, but also
6 perhaps scientific, whatever, and there may be a variety of vehicles they will
7 have to use to do that.

8 But clearly, what is at work here is a fundamental shift in the
9 cultural and institutional values in some very important respects, and a key
10 to that experiment, not only succeeding but surviving over time, will be to
11 help the Department and to help Tom formalize in some sense the mechanisms of
12 reaching out beyond the traditional pattern, to reaching out to other groups.
13 I think the formation of SSABs is a major institutional innovation.

14 Given the composition of this body, the experience of this body,
15 it seems to me that is one of the ways we can be of some real service to him
16 is to help him work that problem through, and given that we do have these
17 dates clicking on us, that this is a discussion we probably ought to organize
18 for the spring.

19 MR. CHRISTEAN: May I suggest to you that one of the ways we could
20 probably help Tom and organize our Committee in a way that we can be helpful
21 might be, instead of trying to guess what he is going to put to us, is sort of
22 be flexible and when he lays a new one on us, we deal with it. In way that
23 how we organize ourselves, to try to guess what he is going to do to us is
24 maybe an exercise in frustration.

25 CO-CHAIR ALM: Jerry, that is exactly the kind of comment I think
26 we need to have. I mean we need to figure out how the interaction is going to
27 work, and it has got to be a two-way street. That is really all that we are
28 asking for.

29 Shira?

30 MS. FLAX: I know that time is of the essence and I am really
31 sorry that we can't stay with this discussion too much longer. If I could
32 just draw your attention to one thing, and that is, Dick Bangart wrote a memo
33 about six weeks ago, I believe, or eight weeks ago, where Dick tried to
34 integrate the goals and objectives that Assistant Secretary Grumbly
35 articulated to us, with the issues that this Committee had decided that it

1 wanted to look at after a lot of deliberation including bringing in an outside
2 facilitator to help us articulate what we feel is needed.

3 Please feel free to look at it and talk to Dick or whatever.

4 CO-CHAIR COSTLE: That is a good point.

5 MS. FLAX: The other thing that I would just like to throw out is
6 that I was trying to listen very carefully to how the DOE senior staff, who
7 spoke to us, how they see us as a board of directors, and the only thing that
8 I could hear is I heard Jim Werner say that the best way we could be helpful
9 to him is to master a technical issue, in other words, be able to talk to him
10 on a level that would be helpful to him.

11 The other thing is, is that the R & D folk did say that it would
12 be helpful to him that when they are circulating decision memos or option
13 papers within the Department, that they also circulate it to the Committee.

14 On that note, I think also what is needed is a skills assessment
15 of this Committee, so that maybe people like Bill would be very helpful in
16 helping Tom figure out how to do the outreach and the culture change that you
17 just talked about.

18 CO-CHAIR ALM: I agree, very helpful.

19 Vicky?

20 MS. DASTILLUNG: It would be helpful for us to know whether we are
21 going to be asked back to serve on the Committee when our membership is up and
22 who are the people that are planning to continue if they are offered -- you
23 know, not knowing what the membership and the composition will be may make a
24 difference in how some people feel about the Committee and all.

25 CO-CHAIR ALM: I agree, and I am not sure I know either.

26 CO-CHAIR COSTLE: I know I don't.

27 CO-CHAIR ALM: I don't know for sure.

28 CO-CHAIR COSTLE: My assumption is that we serve at Tom's pleasure
29 basically, and he makes the decisions, he created us, in terms of authority,
30 but he has made it absolutely clear to us, and to Al and I, that he is
31 obviously going to be very responsive to our suggestions on people, in other
32 words, the Committee.

33 That is, he is looking to this Committee to help him identify
34 people, although he obviously would reserve himself the right to name people,
35 as well. I mean this is an invitation from him to have discussion among

1 ourselves.

2 CO-CHAIR ALM: Jay.

3 DR. SORENSON: Vicky was good enough to point out that my name and
4 number is not on the list, so if anyone would like to reach me, my telephone
5 number is (505) 884-4314. I live at 2800 Charleston, Northeast, Albuquerque,
6 New Mexico 87110.

7 CO-CHAIR ALM: Just going down the list, Ben, you had a resolution
8 that you would like to present to the group?

9 MR. SMITH: Yes. If everyone could find in their massive stack of
10 papers in front of them, this one headed up "Draft - to be Taken up for
11 Discussion in Committee Business Session" in bold print, a one pager. If you
12 don't have one readily available, see if your neighbor has one that you could
13 look on, so we can move on with this.

14 CO-CHAIR ALM: Why don't you describe it briefly anyway. It is
15 not that long.

16 MR. SMITH: I want to give you a little bit about the origin on
17 this. As we have discussed in the PEIS Subcommittee with the consultant
18 staff, Glen Sjoblom and his staff, about how we could raise the profile of
19 waste reduction in this Programmatic EIS, realizing that there is tremendous
20 power in solving our problems if only we can get a handle on the amount of
21 waste we generate.

22 As we discussed that and talked about how it would be addressed in
23 the Programmatic EIS, we realized that we really didn't have to wait until all
24 the analysis was finished to go ahead and sort of recommend a fundamental,
25 that many of us in the environmental field would recognize as a fundamental,
26 and let me give it to you in my words.

27 The fundamental is that the cost and the other difficulties of
28 waste management create a very strong incentive for waste reduction, very
29 simple. To expand on that a little bit, the managers of all types of
30 operations typically try to externalize these costs and difficulties, and
31 focus only on those things that are central to their mission, which may be
32 production, usually is some type of production, requiring managers to bring
33 waste considerations explicitly into the calculations for the bottom line
34 brings out all types of innovation and creativity in waste reduction.

35 Now, that is the fundamental that we are trying to incorporate.

1 Gary Voelker brought it up just crystal-clear this morning when he said he
2 couldn't understand the rationale that went in years ago. Putting the waste
3 in the first tank, he understood that, but when it was the second tank and the
4 third tank, and on ad infinitum, he couldn't understand what was causing that.

5 Well, I would submit to you that the incentives were in the wrong
6 place and that those incentives have not been entirely corrected today in that
7 we see a lot of applications on the Oak Ridge Reservation for continued
8 storage and fewer applications for waste treatment processes.

9 So with that background and with the argument that I hope we are
10 getting to a fundamental here, let me introduce the resolution to you.

11 "Whereas the Environmental Restoration and Waste Management
12 Advisory Committee wants to help the Department of Energy reduce costs and
13 increase the productivity of the waste management and environmental
14 restoration programs;

15 "and, whereas, the Committee believes that waste reduction efforts
16 should be greatly emphasized in a programmatic fashion in the Department to
17 reduce costs and environmental impacts;

18 "and, whereas, the Department of Energy facilities on the Oak
19 Ridge Reservation have successfully tested a waste generation charge-back
20 system which was shown to reduce waste generation;

21 "and, whereas, this action would facilitate the Department
22 achieving the goal of a 50 percent reduction in waste production as stated in
23 Executive Order" -- and we need to fill in a number there, that is President
24 Clinton's new executive order --

25 "Therefore, the Committee recommends that:

26 The Department should institute a policy which requires the costs
27 of waste management services be charged to the organizational units which
28 generate the waste. This charge would result in an actual budget transfer
29 from the organizational units with waste-generating projects to the budgets of
30 the Department's waste storage, treatment, and disposal units. The budget
31 transfer shall be proportional to the amount and hazard of the waste which
32 requires waste management services."

33 This is our resolution. I would want to tell you that it has been
34 passed unanimously by the PEIS Subcommittee. We discussed it at a couple
35 different meetings. I would move that it be taken up for approval by the full

1 EMAC Committee.

2 I offer a little bit of further discussion. We heard actually in
3 our presentation this morning a precedent of such a charge-back arrangement
4 when we heard the facility transition people talking about the 40 or 45
5 million, I forget which, that is charged back from defense programs to
6 facility transition for the services of caretaking the plutonium.

7 So, this is not an unheard of arrangement. As I said, it has been
8 in operation before on the Oak Ridge Reservation, worked very well. I must be
9 candid with you that while it was working very well on the Oak Ridge
10 Reservation, at one point the Comptroller in DOE, I understand had some
11 problems with it and it was stopped at that point.

12 But we think it is time to revisit this issue and that it has very
13 significant power in waste reduction, and that should be one of our central
14 missions.

15 CO-CHAIR ALM: Is there a second to the motion?

16 DR. PAULSON: Second.

17 CO-CHAIR ALM: Second. Discussion? Fred.

18 DR. DONATH: I fully support the spirit of the resolution,
19 however, it is not clear to me why a resolution is required for the Department
20 to implement a policy which seems self-evident. Maybe somebody could address
21 that.

22 CO-CHAIR ALM: We can start the preface saying, "Being self-
23 evident."

24 CO-CHAIR ALM: There is some precedent for that phrase. Glenn?

25 DR. PAULSON: I also will support the resolution based on my
26 experience as director for a while of an EPA Center of Excellence that focused
27 on industrial waste elimination, where our research showed this kind of
28 incentive really works in the industrial sector, as well.

29 I call the question.

30 MR. SMITH: I would like to maybe take a stab at answering Fred's
31 question. The resistance that I have seen to this tends to focus in areas
32 where production is such a central mission that people don't want to be
33 bothered.

34 On the Oak Ridge Reservation -- and I say this with the danger
35 that I may turn around some votes on this, but I want to be candid -- on the

1 Oak Ridge Reservation, at the Oak Ridge National Laboratory, we have many
2 units over there that feel that if they are required to calculate the bottom
3 line on their research projects, then they may not be competitive in making
4 their proposals for research.

5 Consequently, on the whole Oak Ridge Reservation, between K-25, Y-
6 12, and the National Lab, we have found that, by and large, the National Lab
7 in many areas lags behind in waste management because the incentives are there
8 to try to externalize the waste management costs out of their research
9 projects.

10 I just want to be candid with you that that is where some of the
11 resistance to this comes from, but I don't buy that. I think it needs to be
12 changed.

13 CO-CHAIR ALM: The question has been called. Let me just make one
14 clarification that I discussed with Ben. This particular recommendation,
15 because it is Department-wide, would be sent to the Secretary, not to the
16 Assistant Secretary for EM.

17 With that understanding, all those in favor, signify by saying
18 "aye."

19 [Chorus of ayes.]

20 CO-CHAIR ALM: Opposed?

21 [No response.]

22 CO-CHAIR ALM: The ayes have it.

23 DR. DONATH: I would recommend if we revised -- just a friendly
24 recommendation here -- to have the format of a true resolution.

25 CO-CHAIR ALM: I beg your pardon?

26 DR. DONATH: Edit it so that it has the format of a true
27 resolution.

28 CO-CHAIR ALM: So noted. Ben, you can figure out and put it in
29 there. Why don't you and Fred talk about that.

30 MR. SMITH: We haven't had a uniform format.

31 DR. DONATH: Be it resolved sort of thing. You have one on your
32 table in front of you.

33 MR. SMITH: This one is better.

34 CO-CHAIR ALM: I guess the next issue is the time and place for
35 the next meeting. Having had nothing to do with this before and trying to

1 stay out of any further cross-fire, I will leave that to those who planned the
2 particular session before.

3 DR. SORENSON: I would like to call attention to an invitation to
4 the members of this Committee, the Laboratory Directors Committee on
5 Environment, Safety, and Occupational Safety and Health is planning a land use
6 forum for March in Washington, and they plan really to work from some of the
7 recommendations in the EMAC white paper, and they would like to invite
8 everyone from EMAC to that meeting. They would also like to report back on
9 some of the case studies that they are doing.

10 Their meeting takes on March 16th and 17th, which is one of the
11 two weeks that were being considered for this meeting, and they did ask me to
12 extend the invitation and to convey that message.

13 MR. CHRISTEAN: Mr. Chairman, before you all, we had done some
14 planning on meeting, before Tom Grumbly I guess it would be fair to say, we
15 had done some planning on future meetings. St. Louis was the one that we gave
16 up on to be here. Unless there is reason to the contrary, I would like to
17 suggest St. Louis.

18 CO-CHAIR COSTLE: Is that agreeable with everybody else?

19 MR. CONNOR: That would be during the spring flooding?

20 CO-CHAIR ALM: Tom has indicated he will go wherever the group
21 wants to go.

22 MR. KUCERA: Well, you might be able to see a splendorous natural
23 event if you come by St. Louis. We would be hosting the meeting. We would
24 work with the EMAC staff to host the meeting in St. Louis to make access easy.
25 It would be near the St. Louis Lambert airport where you can also visit a
26 contaminated site within 1,000 or 1,500 feet.

27 If you all want to pick the week later because there is some
28 conflict right now with one of these other ones, we don't care. Either week
29 works for us. We just think it is important for the group to come to St.
30 Louis to see what is a slightly different type of problem than what we have
31 been used to dealing with so far.

32 CO-CHAIR ALM: Glen, do you want to comment?

33 MR. SJOBLUM: We had previously, the staff had polled the members
34 and for two different weeks, the week of March 7th, and for that meeting there
35 were three of you who had indicated a conflict.

1 For the week of March 14th, there were none who indicated a
2 conflict. So, it appears that the week of March 14th is preferable. Now, in
3 terms of the relationship here with the land use, just as a note, it seems
4 like the likelihood the whole Committee would come to such a meeting is
5 perhaps questionable.

6 Perhaps there is a middle ground the staff could explore so as to
7 maintain the plan for the meeting while still affording a way of interfacing
8 with this other effort, and so it seems from the previous poll that we had,
9 that the best time would be the week of March 14th.

10 CO-CHAIR COSTLE: Could I ask a question in that context just to
11 get a sense of people? I mean these are long meetings, and it seems to me
12 that to the extent we could get a business meeting that would focus on one
13 day, that we schedule field trips, essentially optional, so that some members
14 who would have trouble making two or three days, could get in and out on the
15 one day for the actual business end, but also make available the night before
16 and the day before, for that matter, for subcommittee meetings, that that kind
17 of -- just roughly speaking -- that kind of a model, I mean how do you react
18 to that?

19 MR. CHRISTEAN: Mr. Chairman, I will tell you how I react. It
20 costs a lot of money to pull us together, and I submit to you that we ought to
21 do more business, business session business than one day.

22 CO-CHAIR COSTLE: I am thinking you have subcommittees, as well.

23 MR. CHRISTEAN: Yes, but I have got to tell you something. By the
24 time we hear people and we deal with the things, and we deal with Committee
25 business, which we haven't touched yet here, let me assure you that in the 18
26 months that we have gone, I mean it would be just my opinion that we need at
27 least two days, because essentially, you are giving up a week. It screws up a
28 week to go, go to these meetings, you know.

29 So, I would just would submit that to you. You can do what you
30 want with it.

31 CO-CHAIR COSTLE: It would certainly assume as a precondition a
32 much tighter Committee agenda, fewer, but more focused in-depth issues
33 perhaps.

34 MR. CHRISTEAN: But let me tell you something. You may think that
35 what we have gone through here has been an edifying experience. We have had a

1 lot of people in. But I will tell you that I felt like the presentations were
2 cut short, we had precious little time to discuss and ask questions. I don't
3 think that is a good presentation.

4 I mean it is part of a presentation. But I think if we are going
5 to get to the meat of the coconut out of people that come to give us
6 presentations, we need to give them a little more time and give us more time.

7 CO-CHAIR COSTLE: I think that is probably right. I think this is
8 in the nature of a survey and a canvass, the new team getting their feet on
9 the ground and saying we really want to tell you where we are at. In that
10 sense, it served a useful purpose, although I thought, too, that a lot of -- I
11 mean I agree with you, Jerry -- a lot of those presentations were necessarily
12 truncated.

13 But in terms of how we want to function in the future, again, this
14 is food for thought. We can come back and discuss this, obviously, in March,
15 but you might want to be more selective, pick, you know, particular issues,
16 and then really grab them and take the time necessary to do them to our
17 satisfaction.

18 It does mean, I mean the implication of this, obviously, is the
19 Subcommittee work becomes all the more important, and that is something we
20 ought to think about in terms of what we recommend to Tom going forward as a
21 more or less permanent institution.

22 MR. KUCERA: Mr. Chairman, I just have one thing to say about it.
23 I would hope whatever you would structure we can accommodate. With respect to
24 the St. Louis and the Weldon Spring sites, however, I would really suggest
25 strongly that we try and arrange for a tour, so that this Committee can see an
26 uncontrolled site, which is what we have there in the midst of a metropolitan
27 area that contaminates more than 80 public and private properties that are not
28 in the middle of a DOE reservation.

29 Whether we take a half day or a full day to do it, I think that it
30 is important to the work of the Committee to see what we are grappling with
31 there. Even though our curie counts aren't as high as they have got elsewhere
32 in the complex, we have got a real problem.

33 So, I would just hope that we wouldn't schedule that so that
34 people consider it is not important and give it short shrift. I think it
35 needs to be a central part of the experience in St. Louis.

1 CO-CHAIR ALM: Okay. Have we decided that March 14th will be the
2 date then?

3 CO-CHAIR COSTLE: Yes, definitely.

4 MR. McCALL: Mr. Chairman, I have always agreed with my fellow
5 Oregonians -- there is actually three of us here -- but in this case, Jerry, I
6 am in a different point of view. It is difficult for me. I don't look at it
7 as a week lost, to try and squeeze a little time out of a week to come to
8 these meetings.

9 So, I would just like to put in the countervailing view, and I
10 would say if we are going to do field visits, that means that we have to
11 balance some of the other things. We can't eat the whole meal each time.

12 CO-CHAIR ALM: Could I ask that you all could get to either Doug
13 or myself on your feelings about this issue?

14 Let me hit the last two things that we have got to have, and we
15 really have to get out of here in about eight minutes. One is my sense is
16 that my sense is that we were charged with three things by the Department.
17 One of them we have already discharged, the SSAB issue.

18 Gary Voelker, I think gave us an invitation to create a group that
19 would deal with technology and technology transfer issues, and secondly, Jill
20 Lytle would like us to take on a spent fuel issue.

21 With respect to Jill's question, we can wait. She is going to
22 develop a position paper that can be sent around to the members of the
23 Committee, and we can decide at the next meeting whether or not we want to
24 take on this issue, and if so, appoint an appropriate group.

25 I think the technology question was fairly well laid out, and I
26 just wondered how you all felt, whether we would like to create a technology
27 Subcommittee, and if so, would anybody volunteer to head it.

28 Tad?

29 MR. McCALL: Yes, I would. I think this would be a good
30 subcommittee, and I think we can look at the other side of what Glen is
31 looking at, and that is that some of the barriers that take technology out,
32 and I would be willing to volunteer to be chairman of that committee. There
33 are probably those people who are more technically oriented than I am.

34 CO-CHAIR ALM: How do others feel?

35 MR. SMITH: It would be good. I was the sponsor of the idea that

1 we have technology-oriented panels at a couple of our other EMAC meetings. We
2 had a very successful panel at Oak Ridge, and I would like to think it had a
3 little something to do with them rethinking the program.

4 I know there are a lot of other pressures, but, yes, I would be
5 interested in seeing EMAC delve into that a little more.

6 CO-CHAIR ALM: Is there a motion?

7 MR. SMITH: That is a motion.

8 CO-CHAIR ALM: So moved. Second?

9 MR. CHRISTEAN: Second.

10 CO-CHAIR ALM: Any discussion?

11 All those in favor, signify by saying "aye."

12 [Chorus of ayes.]

13 CO-CHAIR ALM: Opposed, nay?

14 [No response.]

15 CO-CHAIR ALM: The ayes have it.

16 Finally, I forgot to mention who is going to be on what I call the
17 SSAB Committee. The names I have collected are Tim Connor, Jerry Christean,
18 Ronald Ross, Jay Sorenson, Jeff Breckel, Shira Flax, and Ken Korkia.

19 Anybody else -- Dennis Bechtel, okay. I apologize. So that takes
20 care of that committee.

21 MR. CONNOR: Could you read the names again, please?

22 CO-CHAIR ALM: Yes. Tim Connor, Jerry Christean, Ronald Ross, Jay
23 Sorenson, Jeff Breckel, Shira Flax, Ken Korkia, and Dennis Bechtel.

24 The only other business is the minutes of the previous meeting.

25 MR. SJOBLUM: The minutes of -- let me divide this into two parts
26 -- the minutes of subcommittee meetings are prepared during each meeting and
27 circulated within a couple hours after subcommittees, and we have been doing
28 that.

29 If, say, the Subcommittee chairs would please mark them up and
30 provide them back to the staff, then we can finalize those before people's
31 memory becomes cool on that. As far as the minutes of the entire meeting are
32 concerned, those are prepared following each meeting, and they are sent out to
33 the chairmen for review and signature after the staff has done its utmost to
34 insure their accuracy.

35 We actually prepare them, and then when we get the full transcript

1 of each meeting, we go through and make sure that the actual transcript and
2 the minutes, which is much more summary form, track. Then, it is submitted
3 for signature by the co-chairmen, and I sign them, as well.

4 CO-CHAIR ALM: So, they don't require a board?

5 MR. SJOBLUM: No, they have not been approved. We have not, to my
6 knowledge, had any problem resulting from that process.

7 CO-CHAIR ALM: The reason I said that is because I have been on
8 many boards where you do have to approve the minutes. That is good.

9 Let me say one last thing and then I would like to turn this over
10 to Doug. Clearly, we didn't have enough time to do the business, and that is
11 something that we need to fix in the agenda. I apologize for having to move
12 through these things so quickly, but that is sort of a combination of the way
13 the agenda went and the fact that Tom Grumbly came late didn't help, so I
14 apologize.

15 CO-CHAIR COSTLE: On behalf of both myself and Al want to tell you
16 how pleased we are to be a part of this enterprise. I think what is happening
17 here is, in fact, precedent setting in an area of the government where
18 sunlight has been badly needed, and we really look forward to working with
19 you, and we will be talking with you, obviously, between meetings, as well,
20 and anytime, don't hesitate to pick up the phone and call.

21 Dennis.

22 MR. BECHTEL: Mr. Chairman, I would just like to note that we had
23 actually scheduled two meetings. St. Louis was supposed to be in December,
24 and Las Vegas in March, and I have done some preliminary planning for the Las
25 Vegas meeting. If that is to be shifted to June, I would like to get maybe
26 some clarification on that.

27 CO-CHAIR COSTLE: We will get back to you on that. I am anxious
28 not to lose Tom. You know, I think it is important that he feel vested in
29 this, and he has clearly gone out of his way to make sure his staff is vested
30 in this Committee, so I don't want to lose that, and we may have to do an
31 alternating kind of thing where we take advantage of his desire to have
32 meetings here on occasion, as well, although he clearly indicated yesterday he
33 is not averse to traveling, particularly if he can get in and out in one day.

34 MR. CHRISTEAN: Mr. Chairman, I would like to say something to
35 you. It's a first meeting, and from this member's perspective, I felt like I

1 particularly was treated very fairly and I think you have run the meeting in a
2 very good manner and got the business done, and I don't think you are to blame
3 at all for the fact that we didn't have the time to do what we needed to get
4 done.

5 I think you guys did a hell of a job, and I want you to know that
6 I appreciate it.

7 CO-CHAIR COSTLE: Thank you, Jerry.

8 MR. ROSS: Jerry, is that that you feel unfairly treated most
9 other meetings?

10 MR. CHRISTEAN: Only by my colleagues. They make you look damn
11 good.

12 CO-CHAIR COSTLE: Vicky?

13 MS. DASTILLUNG: I would like to see the co-chairs talk to Russell
14 Jim about following up on his idea of having some people from the Indian
15 nations talk to us, perhaps in St. Louis.

16 CO-CHAIR ALM: We were thinking about that, and we want to make
17 sure it is really done well, maybe the meeting after, but clearly, that is
18 something that we would like to do.

19 MS. DASTILLUNG: I just want to make sure that that is not lost.

20 [Whereupon, at 3:30 p.m., the meeting was concluded.]
21

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