A REVIEW OF ONGOING MANAGEMENT CONCERNS AT LOS ALAMOS NATIONAL LABORATORY

HEARING

BEFORE THE

SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

OF THE

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COMMERCE
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THURSDAY, MAY 5, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:12 p.m., in room 2322, Rayburn House Office Building, Hon. Ed Whitfield (chairman) presiding.

Members present: Representatives Whitfield, Walden, Burgess, Stupak, DeGette and Inslee.

Staff present: Mark Paoletta, chief counsel; Thomas Feddo, majority counsel; Chad Grant, staff assistant; Dwight Cates, majority professional staff member; Chris Knauer, minority investigator; Edith Holleman, minority counsel; and Turney Hall, minority staff assistant.

Mr. WHITFIELD. At this time, I will formally call the meeting to order.

Today's subject of this hearing is A Review of Ongoing Management Concerns At Los Alamos National Laboratory. I will begin with an opening statement, and then we will do the opening statements, and then we will be introducing the panel. We only have one panel today. Originally we had two, but we combined them into one.

I am going to submit my entire opening statement for the record, but I just want to briefly touch on a few points.

First of all, we had the shutdown of Los Alamos back in July 2004 because of the classified removable electronic material issue. In addition to that, we had the injury to the intern because of a laser mishap. We have had several plutonium exposures, the most recent one back in March. We have had contract mismanagement. We have had the security—the TA-18 issue about moving the material out of Los Alamos out to Nevada. Bill Richardson was the Secretary of Energy at the time that commitment was first made, and we still have not made much progress on that. We have had research program delay as a result of the shutdown. We have had a culture of noncompliance at Los Alamos for some time.

And I would just like to make the comment that, even though it is the first time this has occurred, I am delighted that the Department of Energy is issuing a new RFP for the management of this

facility, because it is quite apparent that there are significant issues with the management at Los Alamos.

I am really looking forward to the testimony today. We will be having another hearing after this one in which the University of California will be testifying as well as some whistle-blowers. But I do want to thank you for being here, and I would once again say I am sorry for the brief delay that we had because of the votes on the floor.

[The prepared statement of Hon. Ed Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

This hearing will come to order. Today the Subcommittee will review ongoing management concerns at the Los Alamos National Laboratory. Over the years, this Subcommittee has held numerous hearings to review safety, security, and procurement management problems at Los Alamos. In 2003, we held three hearings to review major procurement fraud and incidents of outright theft of government property at the Laboratory. These serious problems, like so many other problems at Los Alamos, were discovered by hard-working and honest employees at the lab who later suffered acts of retaliation from managers that did not want the truth to see the light of day.

At another Subcommittee hearing in May of 2000, Mr. Joe Gutierrez, an employee in the audits division at Los Alamos, testified regarding acts of retaliation he suffered for revealing that the Lab was not in compliance with the Clean Air Act. The Department of Labor determined his whistleblower claims were real, and this decision was upheld numerous times, in spite of several appeals from the team of defense lawyers hired by the University of California.

Over the years, the Subcommittee has struggled to understand the apparent culture of disregard for rules and procedures at Los Alamos. Just last month, Los Alamos Director Pete Nanos testified at our nuclear facility security hearing regarding his decision to shut down the Laboratory after several safety and security incidents in the Summer of 2004. In his testimony, Director Nanos referred to "clear signs of a behavioral problem" among some employees at the laboratory who demonstrated a "disregard for basic safety and security rules."

If you review our extensive hearing record on Los Alamos, you will find numerous examples that support this conclusion. At today's hearing, we will review several additional findings that demonstrate a similar disregard for the rules, for instance:

- A February 2005 report from DOE Inspector General Gregory Friedman—who will testify on our first panel—found that DOE will not meet its commitments for removing transuranic wastes from Los Alamos because the laboratory "had not consistently followed approved waste processing procedures."
- Another February 2005 audit report of the DOE Inspector General found that "LANL out-processing procedures were not followed by 40 percent of the 305 employees included in our sample." Thus, there were no assurances that security badges for these employees were turned in, or that classified documents in the possession of these employees were accounted for after they left.
- And just a few weeks ago last March, several employees were exposed to plutonium while working in a confined tank vault. According to an investigation report, these workers were unnecessarily exposed to plutonium because safety technicians failed to analyze the radiation hazard, and failed to implement controls for the hazards they did identify.

In spite of these recent problems, I do believe that Director Nanos has finally gotten the attention of every employee at Los Alamos. During the six-month standdown, the lab conducted a valuable self-assessment that identified almost 4,000 issues that need to be corrected. The purpose of this hearing is to determine whether the University of California can finally tackle the problems identified in the self-assessment, and turn the tide on the culture of mismanagement at Los Alamos.

However, I am concerned that the laboratory may not maintain the momentum necessary to implement the corrective actions that were just developed. An even greater risk is that whistleblowers that continue to identify problems at the lab will continue to be retaliated against for their efforts to correct the culture of mismanagement.

I look forward to the testimony from today's witnesses. I plan to hold a second hearing on these matters in the near future to get the views of the University of California as well as several whistleblowers from the laboratory.

Mr. WHITFIELD. At this time, I would recognize the ranking member, Mr. Stupak of Michigan, for his opening statement.

Mr. STUPAK. Thank you, Mr. Chairman.

Last summer, after decades of internal and external reports, congressional investigations and hearings, volumes of recommendations for changing the culture and corrective action plans that were often not implemented, the director of Los Alamos National Laboratory shut the lab down due to a massive review and upgrade of safety, security and other processes at the lab. The final straw leading to the shutdown was a laboratory accident in July involving improper use of a laser beam which permanently injured the eye of a graduate student working at the laboratory.

Some of us on this committee which has been overseeing the lab for more than 2 decades said it was about time. But this action was extremely controversial within the laboratory community.

A group of scientists started a blog in which they rallied against Pete Nanos, the current director, for destroying the laboratory and complained about retaliation. The blog culminated in a petition in February, which I have placed in the record, demanding the removal of Mr. Nanos by the University of California. Some of the more thoughtful comments, however, pointed out that the long-term problems at the laboratory are both poor management and bad science and the lab's long history of retaliating against anyone who pointed out problems. The blog—this one e-mail said: Try to remember, one person wrote, Nanos is not the problem. He is our punishment. End of quote.

On January 31, the laboratory reopened. Many problems were identified, and more corrective action plans were written.

On March 4, 2005, an Operational Efficiency Project execution plan identified eight major problems which needed to be addressed: safety, quality assurance, software quality assurance, conduct of engineering, safety basis, operations, environmental risk management, and training.

The question now is, has anything changed? Based on a radiation exposure incident that happened in March of this year, I am skeptical. Let me describe it.

In 2003, Don Brown, a contract employee at Los Alamos hired to find gaps in the quality control program at Los Alamos, found that there was no tank inspection or preventive maintenance program at Los Alamos. In fact, it had been dismantled years before under a, "we will fix it when it breaks," management approach. Brown described this approach as fraught with danger.

On March 3, 2005, his prediction came true. Contractors were repairing a leak in one of these tanks that had finally broken. The tank, which is 23 years old, held corrosive and radioactive liquid waste from TA-55. A weld had given way, and at least 300 gallons had leaked out in 2003 before the tank was emptied. While scraping out and bagging paint chips and debris, three workers were exposed to plutonium 239.

Why did this happen? The report is in the record, Mr. Chairman, but let me highlight the findings. It is a litany of unacceptable practices.

First, radiological hazards inside the tank were estimated prior to beginning the work, not reviewed by appropriate health physics

personnel or confirmed by actual measurements. The removal of contaminated paint was not even specified in the work package.

No. 2, the required continuous air monitor was not placed inside the tank while the work was ongoing but was outside.

No. 3, managers did not require a conservative approach performing work in a largely uncharacterized environment.

No. 4, workers were not skilled radiological workers and had insufficient training for working in a high contamination airborne environment. The radiation technician was not properly trained.

Five, the radiation technician allowed the workers to take off their respirators, which were highly contaminated, and breathe in the contaminated air. He should have taken steps to remove the contamination first by wiping down the respirators.

No. 6, ventilation was degraded during the work.

No. 7, the leak itself was preventable if there had been a preventive maintenance plan.

Eight, workers were in a vault, which is a confined space, which requires rescue equipment. Although the workers were equipped with a rescue harness, the harnesses were not attached to the line to remove them from a vault if necessary.

It is really difficult to know what else could have gone wrong.

Just after the incident, Los Alamos responded to Mr. Brown by saying that there was a tank inspection program in place but said the sufficiency of its implementation needed to be confirmed. However, the investigative report of the March incident recommended that a formal inspection and testing program be developed.

Additionally, when our staff asked if the radiation technician has been retrained during the shutdown and safety procedures, they were told the radiation protection program was, "an essential program," so it wasn't part of the shutdown and there was no training. Is this the prescribed resumption process for essential activities that Mr. Paul describes in his testimony?

Mr. Chairman, I remain skeptical as to whether the culture at Los Alamos will really change. Director Nanos may have made some mistakes, but if he leaves, as is widely rumored, who will pick up the mantle to institute these necessary changes? Because the culture at Los Alamos appears to be so poisoned at this point—and this blog is just another example of this—it is unclear what can be done to truly fix this broken facility. Replacing the director and his top mates while allowing the status quo culture with the rest of the employees would only prolong the wasting of taxpayers' money or, worse, jeopardize national security.

Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you.

At this time, I will recognize the gentleman from Texas for his opening statement.

Mr. BURGESS. Thank you, Mr. Chairman.

In the interest of time, I will submit mine for the record so we can get to the witnesses.

Mr. WHITFIELD. Okay.

[The prepared statement of Hon. Michael C. Burgess follows:]

PREPARED STATEMENT OF HON. MICHAEL C. BURGESS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you Mr. Chairman, and thank you for holding this important hearing.

This hearing resumes a continuation of the committee's oversight regarding Los Alamos and other nuclear facilities. As I expressed in the last hearing, I am concerned about the troubling reports regarding Los Alamos's safety and security procedures. This important national security matter deserves Congress' full attention, and I support the Chairman's investigation of this pressing issue.

At this time in American history, our national security has become the most important issue facing our nation. It is critical that we do everything within our power to ensure that our nuclear weapons laboratories are highly secured and protected. We cannot allow our national security to be compromised because of inadequate safeguards. The recent security incidents at Los Alamos illustrate that changes must be made to guarantee not only the safety of weapons and top clearance material, but also the employees.

Today, I look forward to the opportunity to further review the security status of Los Alamos. In the last hearing, I entered into a discussion with Director Nanos. While I appreciated his candor, I was greatly troubled by his account of a laser injury that occurred in the Los Alamos Laboratory. The egregious harm caused by the poor laboratory safety procedures at Los Alamos was extremely disturbing. I hope that today's discussion will further focus on particular laboratory safety procedures that have been implemented to ensure that this type of incident will never occur again.

Again, Mr. Chairman, I thank you for this crucial hearing in which we can address some of these essential concerns regarding nuclear facilities and the security of our nation.

Mr. WHITFIELD. At this time, I recognize the gentlelady from Colorado.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. Chairman, I will submit my full statement for the record as well. I just want to make a couple of observations.

The first one is that I completely associate myself with Mr. Stupak's opening statement. We have seen problems at Los Alamos for years now.

Last summer, Chairman Barton and I went out to the facility in Los Alamos and looked at the situation, talked to Mr. Nanos, talked to his senior staff. At that time he was relatively new in the job, and we were impressed that he was trying to finally change the culture at Los Alamos. Since last summer, we have seen problem after problem again, culminating in this blog that Mr. Stupak is talking about where people are complaining once again about the management.

I agree with Mr. Stupak and I probably think this is a feeling held in a bipartisan way on this committee. The issues at Los Alamos, some of them are management, but there is a pervasive atmosphere there of not understanding what needs to happen to bring this facility up to the level it should be, not understanding why certain precautions or procedures are important, and generally an arrogance among many employees there. I don't know how we break that. But I don't think that changing management in and of itself, as we have done so many times before at Los Alamos, is going to do anything to solve the situation.

So I commend you, Mr. Chairman, for having this hearing. I think I can speak for all of us when I say we are tired of having these hearings. We would like to see some things change at the facility.

With that, I will yield back the balance of my time.

Mr. WHITFIELD. Thank you very much, and I appreciate those opening statements.

[Additional statement submitted for the record follows:]

PREPARED STATEMENT OF HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

Mr. Chairman, thank you for holding this important hearing. Over the past decade, this Subcommittee has held dozens of hearings to review DOE management problems, and Los Alamos has been the top subject at many of these hearings. This Subcommittee has spent a significant amount of time identifying procurement, safety, and security problems at Los Alamos.

However, in addition to our efforts to uncover specific acts of waste, fraud, and abuse, I would point out that we have spent much of our time trying to figure out why the same management problems keep recurring at Los Alamos.

It seems unlikely that these repeated mistakes are the result of any honest misunderstanding of the rules. Too many managers at Los Alamos plainly believe they can write their own rules. They regularly side-step procurement processes, ignore safety requirements, and simply decline to comply with the sorts of security procedures that are required of all DOE contractors.

It also seems obvious that the lab prizes convenience more than accountability. A common attitude we've noticed is that problems don't exist unless they become too large to ignore. If noticed, problems are swept under the rug like embarrassing household dirt. This is nothing new, and the rugs at Los Alamos are getting noticeably lumpy. These management problems have led to costly project overruns, damage to our national security, and serious health consequences for workers. Last July a graduate student lost her vision in one eye due to faulty practices of a safety manager at a laser lab. And just days after the lab's stand-down ended, several workers were exposed to plutonium in an underground vault.

I understand that some of the witnesses today believe that the recent stand-down at Los Alamos has helped identify areas for follow-up action by the University of California. This might be true, but I don't plan to get excited until I can see real improvement at the site. Based on our previous oversight work at Los Alamos, I am concerned that the lab may return to business as usual and fail to implement the corrective actions identified during the self-assessment. In fact, the Committee staff has discovered that more than 90 action items from the re-start corrective action plan are already past due.

As I have stated before, I believe the stand-down at Los Alamos was necessary, but it was a direct result of the culture of mismanagement at Los Alamos. I sent several letters to NNSA Administrator Brooks urging him to have the University of California pay for a portion of the costs of the stand-down out of its own pocket. I am pleased to learn that on April 8th NNSA notified UC that it intends to disallow $14 million of these costs. I hope NNSA will follow through on this announcement, and collect the entire $14 million.

I look forward to the testimony from the witnesses today, and I also look forward to the next hearing to get the views of several whistleblowers at Los Alamos as well as officials from the University of California. I thank the Chairman, and I yield back.

Mr. WHITFIELD. As you all are aware on the panel, this is an investigative hearing, and as is the policy with oversight and investigation we take this testimony under oath. I would, first of all, ask any of you, do you have any objection to testifying under oath today? I would also advise you that, under the rules of the House and under the rules of the Energy and Commerce Committee, you are advised by counsel. Do any of you desire to be advised by counsel today before you testify or during your testimony?

In that case, I would ask you to rise and raise your right hand; and I will swear you in.

[Witnesses sworn.]

Mr. WHITFIELD. You now are under oath.

I would ask that we start the opening statements with Mr. Friedman.

My able counsel tells me we are starting with Mr. Paul. So, Mr. Paul, you are recognized for your 5-minute opening statement.

TESTIMONY OF JERRY PAUL, PRINCIPAL DEPUTY ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION, ACCOMPANIED BY EDWIN WILMOT, MANAGER, LOS ALAMOS SITE OFFICE, NATIONAL NUCLEAR SECURITY ADMINISTRATION; GREGORY H. FRIEDMAN, INSPECTOR GENERAL, DEPARTMENT OF ENERGY; A.J. EGGENBERGER, ACTING CHAIRMAN, DEFENSE NUCLEAR FACILITIES SAFETY BOARD; AND MICHAEL KILPATRICK, DIRECTOR OF INDEPENDENT OVERSIGHT, OFFICE OF SECURITY AND SAFETY PERFORMANCE ASSURANCE, DEPARTMENT OF ENERGY

Mr. PAUL. Thank you, Mr. Chairman and members.

I have submitted a written statement. I would ask that it be made part of the record, and I will attempt to briefly summarize and also respond to some of the comments that were made in your opening statements.

I want to thank the committee for holding these hearings. We take these matters at the National Nuclear Security Administration and the Department of Energy very seriously. You are right.

Mr. WHITFIELD. If I may interrupt you just 1 minute. I do want to introduce all the panel members for the people who may be listening.

Of course, Jerry Paul is the Principal Deputy Administrator at the National Nuclear Security Administration. He is accompanied by Mr. Edwin Wilmot, who is the manager of the Los Alamos site office for the National Nuclear Security Administration.

We have Mr. Gregory Friedman, who is the Inspector General at the Department of Energy.

We also have with us Dr. A.J. Eggenberger, who is the Acting Chairman of the Defense Nuclear Facilities Safety Board.

And then we have Mr. Michael Kilpatrick, who is the Director of Independent Oversight, Office of Security and Safety Performance Assurance at the Department of Energy.

So excuse me, Mr. Paul. And you may proceed.

Mr. PAUL. Thank you, Mr. Chairman, for that courtesy; and I hope to have an opportunity to refer to the role that each of the members on the panel have played in this. They are heroes in my mind. I can assure you, together, all of us in different capacities share the concerns that were voiced earlier. These are difficult challenges, but every person at this table has played a very unique role in trying to remedy some of the long-standing problems that you referred to and I think that we are going to get into during the course of the hearing.

As I said, we do indeed take these matters very seriously. You are right to raise these concerns. Your oversight, this committee's oversight is an important part of the reforms that are necessary at Los Alamos National Lab. Although I am relatively new to the National Nuclear Security Administration and this is the first time that I have testified before this august body, I am very familiar with the role that this committee has played, including yourself and the ranking member. In fact, I remember hearing the ranking member say at one time a while back that you were frustrated,

that you had been watching this recurring pattern for 10 years, and over and over and over had heard groups of people testifying in front of you and say that they finally get it and that now we will make the fixes, but it didn't seem like they ever did.

So it is under that color that I now stand before you and say that we have a group here who does finally get it. I am very well aware that that rings hollow because of the history that the members on this committee have with these matters, but I can assure you, to Congresswoman DeGette, that there is no sense of—you referred to a sense of arrogance. I can assure you that that does not prevail upon those who are sitting before you now nor anybody on my team. These people have worked very hard, and they are doing a very difficult task under difficult circumstances.

I won't belabor the chronology of events. Every member on the dais is very familiar with the CREM issue, with the laser issue and what happened on July 16, the shutdown and then the resumption process.

I would point out that the resumption process I think is really an historic effort. Is it perfect? No. But never before, certainly no other administration, probably no other group of people have ever taken on that task to set out and try to reform an organization as broadly as they did here with the more than 3,000 findings, 400 of which were necessary for resumption. My staff alone at the site office and Mr. Wilmot's staff was augmented with almost 100 people to task individual activities throughout the resumption process. As you know, there were consequences as well.

Now there are limits to the tools that we have available to us. We have attempted to manage and oversee—or we have attempted to oversee the way that the tools afford us.

For example, in the fee determination for 2004, the total amount of fee that was available is $8.7 million. Ultimately, the only fee that was received was about a third of that. We made two reductions there. One was a little over $2 million on the performance base because we judged their performance on the operations to be unsatisfactory.

Second, Ambassador Brooks invoked for the first time ever a conditional clause in the contract that allowed him to exert a punitive reduction based on the stand-down itself of approximately $3 million.

As you mentioned, Mr. Chairman, this contract is being bid—competitively bid for the first time in over 60 years. We also have a challenge to those portions of the costs of stand-down that we believe are challengeable. There is a notice of intent to deny allowability on those, and we are currently in the 60-day determination period on that as to two categories.

But you are also, each of you, right in referring to the bigger problem, and that is the culture of noncompliance. We are trying to change that culture. The ranking member and Madam Congresswoman are correct that it is not as simple as blaming a single person, and we spend a lot of time every single day trying to figure what are the mechanisms we can use to show the leadership to try to change that culture. It is difficult. It does take time. I am perhaps not as patient at times as I should be, and I sense that the

members of this committee have lost their patience, and you have been dealing with it for many more years than I have.

I do want to point out, though, that there truly are some unsung heroes in this, some of the people on the panel, people at the sites. People like Chris Steele, a nuclear engineer who heads up the Authorization Basis Team, has done yeoman's work and others, people like Fred Bell, who is also an engineer, who has worked night and day. Some of those people out there, they are exhausted at our site offices trying to wrestle this to the ground, get the lab back up and running because of the importance of this mission but do it in a safe way and do it in a secure way.

One of the members actually mentioned some of the good news here, some of the points of pride here. Being able to move the TA-18 material in while all of this is going on is something that we are proud about, and I hope we have an opportunity to talk about that in more detail. We are still on schedule. In fact, we have accelerated the schedule.

Before we had thought that, due to stand-down, that the schedule for removal of all category 1 and category 2 material out of TA-18 would slip from September to November. I think we are going to get that back to September of this year and have all category 1, category 2 material out of TA-18, out of that canyon.

We are on schedule. We are ahead of schedule on that, and that has been done in large part through the leadership of the gentleman sitting next to me and his team and the focus on this committee. I know it is something that you all have focused a lot of attention on, and we have tried to be responsive to that.

The hydrotest that took place last month, very proud of that. It is a difficult task that required a lot of attention, a lot of work, a lot of energy, a lot of resources, and to do it safely, securely, in the face of all the other activities that had to take place. And also the Mox shipments, being able to process the shipment of the Moxley test assembly material in the midst of all of this.

But surely no person would have credibility sitting in front of you right now and telling you that this is a perfect process or that we can clearly see that we are on the path to complete reform. I am not going to make that pledge to you because I don't know that that is true. I know that we are better than we were, I know that our oversight is better than we were, but we had problems. Some of those problems probably still exist.

One of the things that troubles Ambassador Brooks and myself probably as much as anything is that we ourselves have not been very good, the U.S. Government, at seeing some of the problems before other people see them before us. The ranking member refers to the incident at TA-50, and I think we are going to get into some of the more details. There is an example where we thought the resumption—had all of the commitments that were in the findings been complied with, we believe that event would have been prevented. There were about three of the 400, however, that touched and concerned that very facility, where persons actually signed off that they had made those commitments when they really hadn't. So we did not catch the fact that they had not met those commitments.

So I am trying to communicate to you that, although we feel as though we have made a lot of progress, we certainly believe that we have a lot of work, a long way to go; and we look forward to the input that we will get from each of you. I can assure you that the National Nuclear Security Administration is committed to doing this right. It is absolutely critical to the security of this Nation.

Thank you.

[The prepared statement of Jerry Paul follows:]

PREPARED STATEMENT OF JERRY PAUL, PRINCIPAL DEPUTY ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION

Mr. Chairman and members of the Committee, thank you for inviting me to address the current state of security and safety operations at the Los Alamos National Laboratory (LANL). Over the past ten months we have seen an extraordinary effort by NNSA officials, LANL managers and the employees themselves to address serious concerns about safety and security practices at the laboratory. Today I intend to describe the role that the National Nuclear Security Administration played during the stand down and resumption process at the laboratory and offer a status report on corrective action plans at the laboratory.

HISTORY

On July 16, 2004, the laboratory director, Dr. G. Peter Nanos, suspended all operations in response to two serious events: the discovery that two computer disks thought to contain classified information could not be located and were assumed to be lost, and an industrial accident in which a summer intern was injured by a laser. (Ultimately, after exhaustive investigations by the laboratory, NNSA, and the Federal Bureau of Investigation, we concluded that the computer disks never really existed, the error caused by the improper handling of identification bar codes.)

After the stand down was declared, laboratory managers planned to resume activities on a risk basis. All activities at the laboratory were placed into one of four risk categories: essential, low risk, medium risk and high-risk activities. Some activities categorized as essential, such as systems critical to safety at operational facilities, were allowed to continue. For all other activities the laboratory developed a prescribed process to permit resumption, based on the level of risk. For the highest risk level, managers were required to conduct a self-assessment, followed by an independent readiness assessment by a team of highly qualified individuals. All laboratory staff was interviewed by their management, who discussed the need for security, safety, and environmental compliance. Many staff members had to be trained in the restart process, including self-assessments, and readiness assessments. During the assessments nearly 2500 findings and substantive observations were identified throughout the laboratory; about 400 of them had to be resolved before resumption was allowed. The rest of the findings will be addressed by implementing fully resourced plans that may take two to three years to complete. No activity or staff member was left untouched by the resumption activities. An enormous amount of work was completed before Director Nanos announced, on January 31, that the laboratory had fully resumed activities, with only a few minor exceptions. It should be noted that activities designated as essential were still subject to the resumption process. A special emphasis of the resumption involved accountable classified information contained on computer disks and other removable electronic media, known as CREM. The laboratory had amassed over 80,000 pieces of CREM over the years, which had created a significant accounting problem. During the resumption period, the laboratory reduced its inventory of CREM to around 23,000 pieces and developed a library concept to manage what remains. Twenty libraries supported by 13 additional satellite offices were created to control CREM. These new libraries are staffed and controlled by well-trained custodians whose sole responsibility is to account for the CREM inventories. All CREM users and custodians were trained in the new approach to protecting classified materials.

Today, only one program-essential activity associated with radiography and hydrodynamic testing has not completed the prescribed resumption process. This activity will soon complete its required readiness assessment.

The laboratory has created an Operations Efficiency Project that combines the institutional corrective actions being completed to "get well." Project management tools are being employed to ensure that it receives management attention and can be successfully completed. The Operations Efficiency Project is also integrated with

Local Corrective Action Plans that are being implemented for unique corrective actions for each of the major sub-organizations within the laboratory.

Though the effort of resumption has been truly epochal, much remains to be done in order to bring the laboratory up to appropriate levels of performance for safety, security, and environmental compliance. Our work is not finished.

ROLE OF NNSA DURING RESUMPTION

Even before the stand down, the NNSA had held discussions with the laboratory director and his deputy about our concerns about safety practices at the laboratory. The NNSA was consulted prior to Director Nanos' decision to stand down activities. Throughout the entire period, the NNSA was actively involved in all aspects of the resumption. Initially, the NNSA enlisted additional resources from throughout the Department of Energy, notably the Office of Security and Safety Performance Assurance. The Defense Nuclear Facilities Safety Board also increased its presence, sending selected experts to assist their site representatives. In addition, the full DNFSB Board visited Los Alamos during the resumption to assess progress. The Los Alamos NNSA site office manager met regularly with the DNFSB site representatives to review their concerns. At one point, the NNSA Administrator, Linton Brooks, authorized the site office to bring in more than 40 additional staff to oversee and assist the resumption process. Federal employees were directly involved in self-assessments, readiness assessments, training, finding reviews, and decisions regarding resuming activities. This was very much a joint activity in which the NNSA site office was making decisions and concurring in all safety and security steps along the way. Resumption of activities for medium risk and high-risk activities required my concurrence. For activities designated as essential, either safety or program-based, the federal staff participated as a veto member of teams performing these activities. Consequently, site office staff were readily available to make real time decisions regarding security and safety while in the field. Site office staff helped create the resumption plan, assisted in developing procedures, participated in training, and lent their operational and security expertise to the effort.

The NNSA Administrator went to Los Alamos on July 19, shortly after the stand down was announced, to meet with senior managers at the site office and the laboratory and made subsequent visits to monitor progress. During the first few weeks after the stand down the Deputy Secretary of Energy and Administrator Brooks conducted daily conference calls with senior DOE officials and the site office manager to examine issues associated with resumption activities.

As an aside, I should note that the Secretary of Energy expanded the stand down of CREM activities to all sites within the Department of Energy complex to ensure that proper accounting and control practices were in place. These stand downs generally lasted for a few weeks.

A BROADER PROBLEM

While much of the public attention to events leading to the laboratory stand down focused on the supposedly missing classified media, we in NNSA felt that inattention to safety procedures at the laboratory presented a greater problem. Together they led us to believe that a culture of non-compliance existed within the laboratory. A careful review of leading indicators for operations of hazardous facilities, that is, events that are precursors to low probability-high consequence accidents, suggested that laboratory performance had been declining. Some employees simply were not complying with regulations or working with regulatory agencies or bodies, including NNSA and the rest of the Department of Energy. It is this culture that we, and the laboratory's senior managers, are trying to reverse.

IMPACT ON PROGRAMS

The laboratory is currently assessing the impact of the stand down on programs outside of NNSA that are commonly referred to as Work for Others, which includes work for the Department of Defense. Though the results have not been finalized, preliminary indications are that programs such as analytical activities that did not involve operations at hazardous facilities were not impacted greatly. During the stand down, certain NNSA programs were declared essential from a programmatic mission standpoint and allowed to continue. These programs included shipments of plutonium to France as part of the mixed oxide program; movement of special nuclear materials from Technical Area-18 to the Device Assembly Facility at the Nevada Test Site; and the hydrodynamic test and radiographic examination of modified weapon components in support of the W-76 life extension program. In each of these, crucial programmatic milestones were met despite the overall laboratory stand down.

NNSA and the laboratory employed a special process involving intensive federal oversight to conduct these programmatic essential activities. Project teams were formed with laboratory and federal site office staff so that approvals could be obtained on a real time basis. Significant compensatory measures were employed where safety and security weaknesses had been identified. Senior management, both laboratory and federal, were actively engaged.

Other programs, such as efforts to remove aboveground transuranic waste from the Los Alamos Site and ship it to the Waste Isolation Pilot Plant were delayed. The shipments to WIPP were renewed early in April 2005.

For NNSA programs in general, some interim milestones were missed; but the laboratory in many cases believes that major impacts to the programs have been avoided. Impacts to other NNSA sites were minimized by cooperative efforts between LANL and the other sites. In some cases work was shifted to other sites.

COST ALLOWABILITY

This Committee has asked about the cost of the stand down and whether these costs are an allowable expense that would be reimbursed by the government. Because of accounting procedures used by the laboratory, NNSA has been unable to determine precisely what portion of the laboratory's expenses are directly attributable to the stand down. Laboratory officials, using an accepted estimating technique, identified $119 million in labor costs attributable to the stand down. The NNSA Service Center reviewed the laboratory records to make its own determination and identified a fully burdened upper limit of $367 million for the stand down costs during the period from July 19, 2004 to January 28, 2005. The methodology used to develop this upper limit uses very conservative factors that could overstate the actual cost of the stand down.

Based on NNSA's review of the terms of the contract with the University of California, it is apparent that the vast majority of the costs are allowable costs, and thus are reimbursable expenses by the government. After consulting with the NNSA Field Chief Financial Officer (CFO) and legal counsel, the NNSA site office manager determined that the duration of the stand down was reasonable in light of the issues faced by the laboratory and the degree of federal oversight given to the restart of activities. In fact, I believe that the duration was not only reasonable, but likely noteworthy for its efficiency.

Nevertheless, NNSA has questioned the allowability of about $14million of costs incurred during the stand down. The questioned expenses involve two blocks of money: $6.3 million in small subcontractor claims and other incremental costs and $8 million of costs for the first two days of the stand down. The site office manager has issued a formal Notice of Intent to Disallow these costs and is awaiting response from the laboratory. The laboratory has until June 6 to respond. As this Committee is aware, the Government Accountability Office is currently conducting a review of the costs attributable to the stand down. They made an initial visit to Los Alamos during the week of April 18. NNSA will continue its review of the costs of the stand down, and is not foreclosed from questioning additional amounts as new information is gathered.

STATUS OF "GETTING WELL"

Now that the laboratory has fully resumed operations, one of our challenges is to ensure that the laboratory follows through on the hundreds of corrective actions that remain to be addressed. Many of the issues uncovered during the resumption process had been identified in previous reviews conducted during the past 10 years. Corrective Action Plans from these reviews were prepared but never fully implemented. NNSA has provided additional temporary (varies between 30 and 40) and permanent staff (approximately 20) to the site office to maintain an intensive campaign to verify that the laboratory is performing as it has told the NNSA it will. We have just completed an intensive review of corrective actions and compensatory measures taken to allow the laboratory to resume activities. The review found that only 8 of about 400 actions were not properly completed. Where issues arose, the laboratory took immediate action to remedy them. The federal workforce will continue to work closely with the laboratory as it begins implementing the Operations Efficiency Project and Local Corrective Action Plans. In addition, the Office of Security and Safety Performance Assurance will perform an assessment later this summer to add to the assurance that activities are being properly performed. The NNSA site office is planning a survey this June of all security functions.

Progress is being made in the implementation of the Operations Efficiency Project and the Local Corrective Action Plans. The Operations Efficiency Project implementation is three weeks behind schedule, but important actions have been taken to

delve into the way in which the laboratory manages and maintains its facilities. The delay is of concern, but the groundwork necessary for the Operations Efficiency Project to be successful must be established. Poor facility management has been a serious problem for many years. Establishing the proper roles and responsibilities for facility owners, users, and support organizations lies at the heart of many of the operational issues of the laboratory. Because fixing these prerequisites before fully implementing the Project is so important to its success, the delay becomes acceptable. The Local Corrective Action Plans of each of the sub organizations with the laboratory are going to be reviewed by Assist Teams. The review will look to standardize actions across the laboratory and to integrate these recent findings about facility management into the planning.

Current demands upon the Laboratory for completion of programs outside of NNSA being monitored by the Administrator to avoid over-stressing a somewhat fragile recovery process that will continue through the next year or two.

PROGNOSIS

Progress to date does provide one the opportunity to be cautiously optimistic. We must all keep in mind that the nature of change necessary at the laboratory will take several years and much hard work. The NNSA remains committed to ensure that the laboratory is successful through the vigilance of its federal oversight. Though we have been through a very challenging period that we all would have preferred to avoid, I am heartened by the creativity, dedication and hard work that so many men and women, in both the federal and contractor workforce, have shown in addressing these issues and getting Los Alamos National Laboratory back on track to fulfill its important national security mission.

Mr. WHITFIELD. Thank you.

Mr. Friedman, you are recognized for your 5-minute opening statement.

TESTIMONY OF GREGORY H. FRIEDMAN

Mr. FRIEDMAN. Thank you, Mr. Chairman.

Good afternoon, Mr. Chairman and members of the subcommittee. I am pleased to be here today to testify on the results of our work at the Los Alamos National Laboratory.

In February 2003, I testified before this subcommittee on procurement and property issues at the laboratory. At a subcommittee hearing in May 2003, I addressed our findings regarding the general state of the business systems at Los Alamos. And, in short, we concluded that Los Alamos and the University of California had not paid adequate attention to laboratory business operations.

Since that time, the Office of Inspector General has continued to examine management practices at Los Alamos. We found the laboratory has acted to correct several problem areas but that certain internal control weaknesses persist.

In the 2004 report, we concluded that the laboratory had improved the management of its purchase card program. The purchase card program was the source of a lot of the controversy that existed at the laboratory in 2003. Specifically, we found that Los Alamos had reduced the number of cards in circulation, subjected purchase card transactions to multiple reviews, and made approving officials responsible for fewer cardholders.

Despite the laboratory's efforts, my office has issued a series of reports and completed several investigations that pointed to needed improvements in the areas of project management, security and contract administration for which Los Alamos, the University of California and the Department have a shared responsibility.

Our report on the Dual Access Radiographic Hydrodynamic Test Facility, commonly referred to as DARHT, found that Los Alamos

had not made full use of available project management tools to complete the facility. The laboratory had changed work scope, eliminated key elements, and shifted critical activities to other programs.

Furthermore, Los Alamos significantly underestimated the cost of various work elements as well as the funds needed for project contingencies. The laboratory's ability to complete the project on schedule and within budget was adversely affected, potentially impeding the Department's Stockpile Stewardship Program.

In the security arena, a February 2005 inspection on security and the outprocessing of employees concluded the procedures at Los Alamos did not provide assurance that, prior to departure, employees turned in security badges, completed the required Security Termination Statement, or had their clearances and access authorizations terminated in a timely manner. Subsequent to completion of our field work, the laboratory revised its outprocessing procedure.

Our 2004 report on subcontract administration found that Los Alamos had not effectively managed certain aspects of its very sizable subcontracting process. At the time of our review, the laboratory had not provided adequate audit coverage to determine whether costs were allowable for 93 active subcontracts valued at $1.3 billion, nor had it determined the allowability of over $9 million in costs questioned by audits completed during 2001 through 2003. The laboratory had not provided sufficient resources to its contract audit function, and it had not established formal procedures regarding cost resolution.

In a joint investigation with the Federal Bureau of Investigation, we determined that two Los Alamos employees used government funds to purchase items for their personal use, including television sets, automobile parts and barbecue grills. In 2004, a Federal grand jury returned a 28-count indictment for fraud, conspiracy, theft of property and making false statements to investigators. Both employees were sentenced to confinement and ordered to pay restitution.

Finally, Mr. Chairman, our 2005 audit on home office expenses revealed that the Department will incur unnecessary costs to pay for corporate activities at the University of California in support of the laboratories. Specifically, the Department will pay about $21 million in unnecessary fixed costs because of a calculation error made at the time of contract award. It will pay about $8 million for work that did not benefit government-funded activities, and it reimbursed the University of California $880,000 for erroneously claimed expenses.

As you and everyone else is aware, the Department has initiated procurement actions to recompete the contract to operate Los Alamos. Regardless of the outcome, the Department needs to strengthen its contract administration strategy at the laboratory. There are six principles which we believe are essential to this effort:

The Department and the National Nuclear Security Administration must ensure that its contractors establish robust, effective, and reliable business systems; promote contractor governance models that adequately protect the Department's interests; foster a culture where contractors fully understand and honor the very special

responsibility associated with managing taxpayer-funded Federal facilities; promote an environment where both Federal and contractor employee concerns can be raised and addressed without fear of retaliation; develop quantifiable, outcome-oriented metrics and maintain a system to track critical aspects of contractor performance; and reward contractors commensurate with their accomplishments.

My office will continue to review the situation at Los Alamos as it evolves.

Mr. Chairman and members of the subcommittee, this concludes my oral statement. I would be pleased to answer any questions at the appropriate time.

[The prepared statement of Gregory Friedman follows:]

PREPARED STATEMENT OF GREGORY H. FRIEDMAN, INSPECTOR GENERAL, U.S. DEPARTMENT OF ENERGY

Good afternoon Mr. Chairman and members of the Subcommittee. I am pleased to be here to respond to your request to testify on the results of our work at the Los Alamos National Laboratory, one of the Department of Energy's most prominent facilities.

In February 2003, I testified before this Subcommittee on procurement and property management at Los Alamos. My testimony addressed weaknesses in controls over: property accountability; procurement authority, including purchase cards; and, security of computers.

At the Subcommittee's hearing in May 2003, I testified that the Laboratory had not given adequate attention to its business operations. Specifically, my testimony focused on financial management weaknesses at Los Alamos. I pointed out that the Office of Inspector General had questioned the allowability of certain costs that the Laboratory claimed between Fiscal Years 2000 and 2002, and that weak controls in Los Alamos' audit function; payroll and travel approval process; and, financial systems contributed to an environment where questionable costs could be incurred and claimed.

Since the 2003 hearings, the Office of Inspector General has continued to examine management practices at Los Alamos. In a series of reviews, some of which I will highlight today, we followed-up on a number of previously identified weaknesses. In some cases, the Laboratory had taken appropriate corrective actions. However, in other cases, our reports have shown that more work is needed to correct problem areas.

ENHANCEMENTS OF INTERNAL CONTROLS

In 2004, the Office of Inspector General performed a follow-up review to determine whether the Laboratory had conducted a thorough analysis of its purchase card program and had initiated corrective action to resolve previously reported weaknesses. In our report, *Los Alamos National Laboratory's Purchase Card Program Corrective Actions* (DOE/IG-0644, April 2004), we concluded that Los Alamos had made improvements in the management of its purchase card program. Some positive steps that the Laboratory implemented included:

- Reducing the number of purchase cards in circulation from 800 to 550;
- Subjecting purchase card transactions to multiple reviews and electronically reconciling to supporting documents;
- Prohibiting cardholders from approving their own transactions; and,
- Making approving officials responsible for fewer cardholders, permitting them to provide additional scrutiny of transactions.

Although the Laboratory had clearly made progress, we identified certain opportunities to further reduce risk of card misuse. For example, we pointed out that Los Alamos could clarify guidance concerning unauthorized items, automate data analysis techniques, and enhance periodic reviews of cardholder activities.

AREAS REQUIRING ADDITIONAL IMPROVEMENT

Our recent work disclosed continuing problems in several key areas of Laboratory management. Specifically, we issued a series of reports that pointed to needed improvements in the areas of project management and security. Further, we identified continuing problems in the general area of contract administration, problems for

which Los Alamos, the University of California and the Department have a shared responsibility.

Project Management

Construction and operating projects are essential to accomplishing the Department's missions. Numerous multimillion dollar projects support the scientific and technologically-complex work of the Department, and many of the projects are unique in the world. Prior reviews by my office and others revealed that many of these projects, including some at Los Alamos, have been adversely affected by cost overruns, schedule slippages, and other management problems. Based on our recent reviews at Los Alamos, we concluded that improved project management discipline and structure are needed to effectively manage the costs, schedules, and scope of key initiatives.

Our audit report on *Dual Axis Radiographic Hydrodynamic Test Facility* (DOE/IG-0599, May 2003) found that Los Alamos and the National Nuclear Security Administration had not made full use of available project management tools to complete the facility. As a result, the Dual Axis Radiographic Hydrodynamic Test Facility (DARHT) would not be completed before June 2004, 15 months behind schedule. The DARHT facility at Los Alamos will be the nation's first test facility capable of providing three-dimensional x-ray photographic diagnostic information on the behavior of weapon parts and the effects aging has on a nuclear weapon. Absent underground testing, the facility will play a critical role in certifying that the weapons in the stockpile are safe and reliable. During the review, we found that the Laboratory had changed work scope, eliminated key elements, and shifted critical activities to other programs. Los Alamos had significantly underestimated the cost of various work elements of the project, as well as funds needed for contingency. The Laboratory's ability to complete the project on schedule and within budget was adversely affected, potentially impeding the Department's Stockpile Stewardship Program.

The audit report on *Stabilization of Nuclear Materials at Los Alamos National Laboratory* (DOE/IG-0659, August 2004) showed that, although the Laboratory had made some progress in stabilizing the most hazardous fissionable materials, it had not accelerated stabilization to the level anticipated. We found that the Laboratory would not stabilize materials until 2010, well beyond the original projected completion date of 2002. In fact, Los Alamos missed interim milestones and project tasks, which could delay stabilization beyond 2010. We found that, among other things, the Laboratory had not made full use of available tools to effectively manage the project. For example, many of Los Alamos' work packages, which were intended to provide the detailed guidance for project completion, often lacked milestones and clearly defined statements of work. Managers, therefore, lacked an objective basis to assess and report on the project's status. By extending the schedule until 2010, the Department will incur an estimated $78 million in added costs. Additionally, radioactive materials may continue to deteriorate and negatively impact the safety and health of workers.

Our audit report on *Transuranic Waste Management at Los Alamos National Laboratory,* (DOE/IG-0673, February 2005) noted that the Department will not meet its commitment for removing transuranic waste from Los Alamos and shipping it to the Waste Isolation Pilot Plant. For example, based on projections at the time of our review, the Department was unlikely to complete removal of the legacy transuranic waste before 2014—four years beyond the commitment date. We concluded that Los Alamos' rapid scale-up of waste operations resulted in operational breakdowns. Specifically, operating procedures failed when the Laboratory attempted to increase its volume of shipments to the Waste Isolation Pilot Plant. As a result, the Laboratory had to revise its procedures and retrain personnel on waste processing. The lack of progress in disposing of the waste prevented Los Alamos from expeditiously reducing the health and safety risk posed by the continued above-ground storage of transuranic waste. In addition, the total cost of completing the waste disposition project could increase by over $70 million.

Security

One of the Department's national security objectives is ensuring that nuclear weapons, materials, facilities, and information are secure through effective safeguards and security policy, implementation, and oversight. Since the events of September 11, 2001, this objective has taken on added importance and required the Department and its nuclear weapons laboratories to reassess and strengthen their security posture. However, our recent reviews at Los Alamos, one of the Department's most sensitive sites, disclosed that weaknesses exist in the protection of the Department's critical resources and infrastructure. For example:

An inspection on *Security and Other Issues Related to Out-Processing of Employees at Los Alamos National Laboratory* (DOE/IG-0677, February 2005) concluded that the Laboratory's process did not provide assurance that terminating employees: (1) turned in security badges; (2) completed the required Security Termination Statement; or (3) had their security clearances and access authorizations to classified matter and/or special nuclear material terminated in a timely manner. We found that Laboratory out-processing procedures were not followed for more than 40 percent of the 305 cleared and uncleared terminating employees included in our judgmental sample. We identified 21 employees who retained their security clearances in the Department's data base after terminating employment at the Laboratory, 3 of which remained active in the data base for over a year. By not following the Laboratory's out-processing procedures, there was no assurance that terminating employees fulfilled their responsibilities to, among other things, account for classified holdings. Subsequent to completion of our fieldwork, the Laboratory revised its out-processing procedures to address concerns we raised during our inspection.

In 2004, we completed an inspection on *Internal Controls over Personal Computers at Los Alamos National Laboratory,* (DOE/IG-0656, August 2004), which identified continuing weaknesses over classified and unclassified computers at the Laboratory. Specifically, we found that the Laboratory's listing of Sensitive Compartmented Information Facility classified desktop and laptop computers was not accurate. We also found that a number of classified desktop computers were not entered into the property inventory, and some computers were not assigned property numbers. Finally, we determined that the Laboratory's Office of Security Inquiries had not been notified about a missing component of a computer system accredited for classified use. While there was no evidence that the missing component contained classified information, a security inquiry had not been conducted because personnel did not follow Laboratory policy requiring such notification. These weaknesses undermined confidence in the Laboratory's ability to assure that computers were controlled in accordance with existing property management and security requirements and were adequately safeguarded from loss or theft.

Contract Administration

We have also identified contract administration problems on the part of both Los Alamos and the Department. Appropriate contract administration is needed to ensure that contractor operations are effective and efficient, and that contractors' expenses are allowable. Recent reviews by my office have identified areas where Los Alamos and the Department have not provided effective administration over subcontractor costs, business controls, and home office expenses paid to the University of California to support the Laboratory.

Our audit on *Management Controls over Subcontract Administration at the National Security Laboratories,* (OAS-M-04-06, August 2004) noted that during Fiscal Years 2001 and 2002, Los Alamos, as well as Lawrence Livermore and Sandia National Laboratories, did not always effectively manage certain aspects of the subcontracting process. Los Alamos and its counterparts are expected to ensure that Federal funds entrusted to their care are expended appropriately, that questioned costs are resolved in a timely manner, and that subcontracts are closed when all actions are complete. During the subject audit, we found that Los Alamos had not provided adequate audit coverage to determine whether costs were allowable for 93 active subcontracts with an aggregate value of $1.3 billion. Furthermore, 11 completed subcontracts, valued at $68 million, had not been subjected to close-out audits at the time of our review. We also noted that action to determine the allowability of over $9 million in questioned subcontract costs remained incomplete. Adequate audit coverage was lacking because the Laboratory had not provided sufficient resources to the audit function and had not established formal procedures and training regarding cost resolution. My office is currently reviewing the Laboratory's actions to improve audit coverage of subcontractor costs.

Regarding Los Alamos' administration of business controls, in a case that had much public and Congressional interest, we completed a joint investigation with the Federal Bureau of Investigation and determined that two former Los Alamos National Laboratory employees used Government funds to purchase items for their personal use, including television sets, automobile parts, and barbeque grills. A Federal grand jury returned a 28-count indictment for fraud, conspiracy, theft of property, and making false statements to investigators. One subject of the investigation was sentenced to over a year of confinement and 2 years probation. The second subject was sentenced to 6 months confinement, 6 months of electronically monitored home detention, 2 years and six months probation, and a $30,000 fine. The former employees were also ordered to pay nearly $40,000 in restitution.

In addition, we determined that improvements were needed in the Department's administration of its contract with the University of California, which operates Los Alamos, Lawrence Livermore and Lawrence Berkeley National Laboratories. Under its contractual arrangements with the University, the Department committed to pay the University for certain corporate activities performed in support of the laboratories. Our audit, Department of Energy Contractor Home Office Expenses (DOE/IG-0676, February 2005), revealed that the Department: (1) will incur about $21 million in unnecessary expenses over the 5-year life of the contracts with the University because it used an incorrect allocation base to calculate the fixed payments for home office expenses; (2) inappropriately agreed to provide about $8 million for a percentage of the University's operational costs that did not benefit Government-funded activities; and, (3) reimbursed about $880,000 for erroneously claimed expenses and for unallowable expenses such as costs for student recruitment.

CONCLUSION

Although the Los Alamos National Laboratory has acted to improve controls in a number of areas, our recent work indicates that continued emphasis is needed on improving key management processes.

As you are aware, the Department initiated procurement actions to re-compete the contract to operate Los Alamos. Regardless of the eventual outcome, the Department needs to strengthen its overall contract administration strategies and methodologies at Los Alamos. While this must be a multi-faceted effort, there are six integral principles which we believe are most important. The Department and the National Nuclear Security Administration should:

- Ensure that its contractors establish robust, effective, and reliable business systems;
- Promote contractor governance models that adequately protect the Department's interests;
- Foster a culture where contractors fully understand and honor the special responsibility associated with managing taxpayer-funded Federal facilities;
- Promote an environment where both Federal and contractor employee concerns can be raised and addressed without fear of retaliation;
- Develop quantifiable, outcome-oriented metrics and maintain a system to track critical aspects of contractor performance; and,
- Rate and reward contractors commensurate with their accomplishments.

To assist the Department in addressing the weaknesses discussed today and measure progress towards correcting them, my office will continue to aggressively review the situation at the Los Alamos National Laboratory and other contractor-operated facilities.

Mr. Chairman and Members of the Subcommittee, this concludes my statement. I will be pleased to answer any questions.

Mr. WHITFIELD. Thank you, Mr. Friedman.

Dr. Eggenberger, you are recognized for 5 minutes.

TESTIMONY OF A.J. EGGENBERGER

Mr. EGGENBERGER. Thank you, Mr. Chairman and members of the subcommittee.

Congress created the Defense Nuclear Facilities Safety Board as an independent technical agency within the executive branch, external to DOE, to identify the nature and consequences of potential threats to public health and safety at the Department of Energy's defense nuclear facilities, to elevate these issues to the highest levels of authority and to inform the public. The Board is not a regulator but a small advisory agency with a staff of approximately 60 technical individuals.

The way that the Board operates is we conduct our oversight mission by identifying conditions or deficiencies to DOE. The Board provides advice and recommendations to the Secretary of Energy primarily by way of letters, reporting requirements, and formal recommendations to the Secretary of Energy. Although DOE's contractors take most of the actions in response to the Board, the Board

works primarily through DOE—both the headquarters staff and the site office staff.

With respect to the shutdown at Los Alamos, I would like to divide that into three quick parts, if I could. First is, what were we doing prior to the shutdown by the director?

Based on the hazards, it is important to note that the Board's primary interests at LANL include plutonium operations, processing and stabilization of nuclear materials, the potential for nuclear criticality, nuclear waste processing and storage, and tritium operations. Nuclear programs overall that are also of interest to the Board include integrated safety management, which has been mentioned, the authorization bases, work control, and quality assurance.

Prior to the shutdown, again, in January 2004 the Board identified deficiencies in the implementation of DOE's orders on facility safety that included structured application of engineering standards and practices and the use of formal design reviews.

In February 2004, the Board identified the need for a revised plan to accelerate risk reduction at LANL through the stabilization, repackaging, and disposition of excess nuclear materials.

In May 2004, the Board identified deficiencies in the application of integrated safety management for work planning and control at several NNSA sites, of which LANL was included.

In May 2004, again, the Board pointed out a number of safety issues at the TA-18 facility, where an over-reliance on administrative controls was being used in lieu of engineered controls, and the lack of effective operational oversight by both NNSA and the Laboratory. This is where the high criticality operations were that we talked about earlier.

Then, in May, we identified deficiencies in the development and maintenance of safety bases at LANL.

Now, the shutdown occurred. What did the Board do? In response to the shutdown, the entire Board with its staff went to LANL to assess the condition of the nuclear facilities to, among other things, ensure that the affected defense nuclear facilities were shut down in a safe configuration. We provided several observations to NNSA as to the need to adjust any of the plant conditions to maintain the safe and stable condition during shutdown. We also at that time mentioned that there are longer term issues that need to be identified if you want to startup.

Now we have invested considerable staff resources in monitoring both NNSA and the laboratory during the resumption process.

As far as our issues are concerned and the resumption process, it was mentioned previously that the Operational Efficiency Project included a set of subprojects. Our issues—most of our issues have been rolled up into the Operational Efficiency Project. However, there are a few that have not been.

One of them is fire protection upgrades at the site and the resumption of certain criticality operations at Technical Area 18. There is also an effort on our part to reduce the risk at LANL with respect to stored materials. That is what is called the "quick to WIPP" idea, and we are making sure that that is continuing with utmost speed.

Now, with that, we will continue our vigil at the laboratory. We do have two site representatives onsite that interact on a daily basis with the site office at LANL and also report back to our headquarters.

This is a summary of my testimony, and the entire testimony I would request that that be entered into the record. Thank you.

[The prepared statement of A.J. Eggenberger follows:]

PREPARED STATEMENT OF A.J. EGGENBERGER, ACTING CHAIRMAN, DEFENSE NUCLEAR FACILITIES SAFETY BOARD

INTRODUCTION

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to present testimony on the health and safety oversight activities of the Defense Nuclear Facilities Safety Board at the Los Alamos National Laboratory.

I would like to first summarize the statutory safety oversight mission of the Board, then briefly review the Board's recent oversight activities relevant to the Los Alamos National Laboratory and the Board's current health and safety focus at that site.

THE BOARD'S STATUTORY OVERSIGHT MISSION

Congress created the Defense Nuclear Facilities Safety Board (Board) as an independent technical agency within the Executive Branch, external to DOE, to identify the nature and consequences of potential threats to public health and safety at the Department of Energy's defense nuclear facilities, to elevate such issues to the highest levels of authority, and to inform the public. The Board is not a regulator, but a small advisory agency with approximately 60 technical staff.

The Board's approach to conducting its nuclear safety oversight mission is to identify conditions or deficiencies to DOE. The Board provides advice and recommendations to DOE primarily by way of letters, reporting requirements, and formal Recommendations to the Secretary of Energy. DOE can accept or reject the Board's advice and recommendations. Although DOE's contractors take most of the actions in response to the Board, the Board works primarily through DOE—both headquarters and site office staff.

Operations at DOE's defense nuclear facilities include: assembly, disassembly, and dismantlement of nuclear weapons; and maintenance and surveillance of the aging nuclear weapons stockpile. Operations at defense nuclear facilities also include the stabilization and storage of nuclear materials, the deactivation and decommissioning of facilities, and the processing and storage of radioactive waste. Broadly speaking, the Board provides nuclear safety oversight of DOE's defense nuclear facilities from design through construction, operation, and decommissioning.

The Board conducts its safety oversight of DOE-National Nuclear Security Administration (NNSA) activities at the Los Alamos, Lawrence Livermore, and Sandia National Laboratories; the Pantex Plant, the Y-12 National Security Complex, the Savannah River Site, and the Nevada Test Site. The Board also conducts nuclear safety oversight of DOE's Environmental Management activities at these sites as well as the Hanford Site, Idaho National Laboratory and Idaho Cleanup Project, Oak Ridge National Laboratory, Waste Isolation Pilot Plant, and the Fernald and Mound Sites in Ohio. In establishing its safety oversight program, the Board allocates its resources based on a number of factors, including (1) urgency in terms of any imminent threat to public health and safety; (2) potential risk to public health and safety; (3) effectiveness of DOE management in managing the risks; and (4) timeliness in relation to DOE programmatic or operational goals. In assessing priorities, the Board considers issues brought to its attention by all sources, including workers and members of the public.

The Board's jurisdiction covers nuclear safety oversight of DOE's defense nuclear facilities and activities. As such, some of the issues being discussed in this series of hearings, like those directly related to safeguards and security, business management practices, and operations in non-nuclear non-defense facilities at LANL are not under the Board's jurisdiction. There may be, however, causal elements associated with these issues that are of interest to the Board. Moreover, there are often important relationships between nuclear safety and security, and between nuclear and industrial safety. For instance, the consolidation of nuclear materials can have both safety and security components; however, the Board's jurisdiction is limited to safety issues related to consolidation.

PAST BOARD ACTIVITIES RELEVANT TO LANL

The Board has routinely conducted nuclear safety oversight at the Los Alamos National Laboratory, or LANL, since the Board's inception in 1989. The Board's focus at LANL is directed by the hazards at that site.

Based on the hazards, the Board's primary interests at LANL include plutonium operations, processing and stabilization of nuclear materials, the potential for nuclear criticality, nuclear waste processing and storage, and tritium operations. Nuclear safety programs at LANL are also of interest to the Board, including integrated safety management, authorization bases, work control, and quality assurance.

The greatest hazard at LANL, hence the area of greatest interest to the Board, is plutonium in all forms, including metals, powders, solutions, and wastes. Consequently, the Board has placed emphasis on its oversight of the Technical Area-55 plutonium facility and the Chemistry and Metallurgy Research (CMR) facility. A few examples of the results of the Board's efforts at the plutonium facility include improvements in the plutonium-238 scrap recovery line, the stabilization and safe packaging of excess material, and successful design and installation of the fire water system.

Other examples of areas in which the Board has been involved at LANL include facility upgrade and risk reduction initiatives to safely extend the life of the CMR facility, improvements in operations and oversight at Technical Area-18, and improvements in lightning protection at nuclear facilities.

During 2004, prior to the laboratory shutdown, the Board provided advice to NNSA identifying the need to address a number of safety issues at LANL:In January 2004, the Board identified deficiencies in the implementation of DOE's order on facility safety at LANL, including the structured application of engineering standards and practices and use of formal design reviews. This concern is generally referred to as "conduct of engineering." Appropriate corrective actions to address this issue have now been developed by LANL, at DOE direction, and are included as part of the Operational Efficiency Project discussed later.

In February 2004, the Board identified the need for a revised plan to accelerate risk reduction efforts at LANL through the stabilization, repackaging, and disposition of excess nuclear materials. This activity is being conducted in response to two previous Board Recommendations concerning stabilization of excess nuclear materials, Recommendation 94-1 and Recommendation 2000-1. A revised schedule was developed by LANL to address this concern. These stabilization efforts have been impacted by the LANL shutdown. This is a long term activity and LANL's ability to meet the revised schedule is not certain.

In May 2004, the Board identified deficiencies in the application of Integrated Safety Management for work planning and control at several NNSA sites, including LANL. For LANL, this was a follow-up to a previous observation, and encouraged further improvements beyond those actions already taken. LANL has developed actions to improve its work planning and control processes, and these actions have been included as part of the LANL Operation Efficiency Project.

In May 2004, the Board pointed out a number of safety issues related to nuclear operations at Technical Area-18 at LANL, including an over-reliance on administrative controls in lieu of engineered controls, and the lack of effective operational oversight by both NNSA and the laboratory. High hazard criticality operations have not been restarted at Technical Area-18. Both LANL and NNSA have made substantial changes in the management and oversight of Technical Area-18. LANL is now preparing to demonstrate readiness to conduct a limited number of criticality experiments.

Also in May 2004, the Board identified a number of deficiencies with the development and maintenance of safety bases at LANL. There have been some improvements in this area. LANL has established a safety basis academy and taken other steps to improve the quality of its safety basis submittals. Likewise, the Los Alamos Site Office has taken action to reduce its safety basis approval backlog.

Again in May 2004, the Board identified deficiencies associated with DOE Facility Representative training and staffing at NNSA sites, specifically including LANL. In order to provide the monitoring and oversight of contractor activities necessary to ensure the adequate protection of public health and safety, the Board has long communicated to DOE the necessity to maintain "eyes and ears" in its facilities. DOE's Facility Representative Program addresses this need. As a result of the Board's communication, NNSA is increasing the number of Facility Representatives at its Los Alamos Site Office.

In June 2004, in order to enhance its oversight at LANL, the Board announced its decision to assign a second Board site representative to LANL. This second site representative began on-site duties in August 2004.

SUSPENSION OF NUCLEAR OPERATIONS AT LANL

In response to the shutdown of LANL last July, the Board went to LANL to assess the condition of the nuclear facilities to, among other things, ensure that the affected defense nuclear facilities were shut down in a safe configuration. We also wanted firsthand knowledge of the planned resumption activities. The Board provided several observations to NNSA including the need to adjust plant conditions to maintain safe and stable conditions during the shutdown, the need to aggressively pursue the implementation of improvements in the laboratory's work control process, and the need to continue to address several long-term safety initiatives that would be delayed by the shutdown.

The Board invested considerable staff resources in monitoring both NNSA and laboratory efforts during the resumption process at LANL. In general, the Board has concluded that near-term actions and compensatory measures appear to be appropriate to support the operations that have been restarted.

THE BOARD'S CURRENT FOCUS AT LANL

The hazards associated with nuclear operations at LANL are both significant and complex. The recent shutdown resulted in the identification of numerous corrective actions. The successful implementation of these corrective actions and the execution of the Operational Efficiency Project are vital to achieving long-term improvements in safety at LANL. The Operational Efficiency Project consists of several sub-projects focused on improving the safety of laboratory activities, all of which are of interest to the Board. These sub-projects include:

- Safety (through adequate work planning and control),
- Quality Assurance (including welding deficiencies),
- Software Quality Assurance,
- Conduct of Engineering,
- Safety Bases,
- Operations,
- Environmental Risk Management, and
- Training.

If appropriately implemented, the corrective actions identified for these Operational Efficiency Project initiatives should address several of the Board's concerns. The laboratory has established mechanisms to analyze, prioritize, and manage these actions. The Board plans to closely monitor this effort.

In addition to the Operational Efficiency Project, there are other identified corrective actions that must be completed. Fire protection upgrades must be completed, and nuclear material stabilization and packaging activities must be continued. The resumption of certain criticality operations at Technical Area-18 must be conducted safely with deliberate operations. To reduce the risk from accidental dispersion, potentially vulnerable transuranic waste material must be removed from the site through execution of the "quick to WIPP" effort.

There are also other opportunities to improve the safety of nuclear operations at LANL. Concerns with NNSA oversight at LANL were part of a larger, complex-wide problem recognized by the Board and communicated to the Secretary of Energy in May 2004 by Recommendation 2004-1. In this Recommendation, the Board identified potential safety vulnerabilities at DOE associated with an increased emphasis on productivity at the possible expense of safety, the loss of technical competency and nuclear safety research capabilities, a lack of operational awareness at high organizational levels, and a de-emphasis of central safety oversight. The Secretary of Energy has accepted this Recommendation and an implementation plan is being developed that should result in improvements in DOE's oversight of its high hazard nuclear activities.

Concerns with the manner in which nuclear material confinement was being implemented at several defense nuclear facilities across the complex led the Board to issue Recommendation 2004-2. This recommendation calls for active confinement ventilation for nuclear facilities with the potential for a radiological release. At LANL, an effective confinement strategy must be established for the Technical Area-55 plutonium facility in response to this Recommendation, and to ensure that accidents do not result in radioactive material being released from the facility. An effective confinement strategy must also be established for the proposed Chemistry and Metallurgy Research Replacement facility in response to this Recommendation.

The Board recently issued Recommendation 2005-1 to the Secretary of Energy, which concerns nuclear material packaging. This Recommendation resulted in part from plutonium-238 uptakes by employees at LANL that were caused by a packaging failure. The Recommendation calls for the development of DOE-wide criteria for packaging systems for nuclear materials. Implementation of this Recommendation will reduce the likelihood of a nuclear material release and subsequent worker exposure at all DOE sites, including LANL.

Late last year DOE issued a draft Request for Proposal for the LANL contract. The Board reviewed this draft Request for Proposal with respect to provisions that affect safety. We concluded that it contained unnecessary and ill-advised limitations on DOE's oversight of the contractor and undermined DOE's system for identifying and implementing safety requirements. The Board has worked with DOE to correct this condition. The latest version of the Request for Proposal addresses the Board's concern by preserving DOE's system for identifying and implementing safety requirements, and by not limiting the ability of DOE to direct or oversee contractor activities in the safety area.

In conclusion, the Board believes that the physical and programmatic safety improvements being pursued at LANL are needed, and that close oversight by both NNSA and the Board is required to ensure that needed improvements are realized.

Thank you for the opportunity to report on the Board's efforts and perspective relative to ensuring the adequate protection of public and worker health and safety at the Los Alamos National Laboratory. This concludes my prepared remarks.

Mr. WHITFIELD. Thank you very much, Doctor.

Mr. Kilpatrick, you are recognized for 5 minutes.

STATEMENT OF MICHAEL KILPATRICK

Mr. KILPATRICK. Thank you.

Mr. Chairman and members of the subcommittee, thank you for inviting me to testify today regarding safety and security at the Los Alamos National Laboratory. As mentioned, I am the Director of the Office of Independent Oversight and Performance Assurance, which is responsible for evaluating environment safety and health, emergency management, safeguards and security and cybersecurity functions for the Department of Energy complexwide.

My testimony today will focus on our independent perspectives on the safety and security aspects of the LANL stand-down. Our perspectives are based on our recent assessments and, in particular, reviews that were conducted in calendar year 2004 following the stand-down as well as early in calendar year 2005.

First, our safety perspectives on LANL. Our most recent comprehensive inspection of LANL's integrated safety management program was completed in April 2002. At that time, we had concluded that LANL had made improvements in a number of areas, such as development of their integrated safety management program framework and documentation. However, more importantly, we had identified weaknesses in LANL's implementation of their processes in a number of important areas, including procedure compliance and feedback and improvement systems for both DOE's Los Alamos site office and the contractor organization.

In accordance with our regular schedule, we had planned to perform an inspection of LANL in the August and September timeframe of 2004 to evaluate selected aspects of integrated safety management, including progress and correcting the deficiencies identified in the 2002 inspection. However, because of both security and safety concerns, as you are aware, site management had declared the stand-down of most activities on July 16, 2004. Because virtually no work would be ongoing during the timeframe of the planned inspection, we would not have been able to observe imple-

mentation of safety requirements and thus our ability to do a performance-based evaluation of safety would be limited.

At about the same time, the former Deputy Secretary of Energy Kyle McSlarrow asked us to temporarily step out of our normal role at Los Alamos. In doing so, he recognized the importance of resuming operations at Los Alamos as well as the importance of helping the site to more comprehensively identify and correct their problems. Based on the former Deputy Secretary's direction, it was decided to defer the planned inspection and instead perform an "Assistance Review," which was intended to help the site office—and by extension the laboratory contractor—to assess safety at Los Alamos.

Our approach to the Assistance Review was to use our expertise to mentor and coach the Los Alamos site office and the laboratory and their staff and to provide additional perspective and advice based on our broad expertise and technical depth in conducting critical assessments across the DOE complex.

We found that the resumption process was having a positive impact on improving safety performance by identifying a number of areas requiring LANL management attention and action and by more generally raising safety awareness across the laboratory. However, we also concluded that significant efforts remained to be completed and that sustained and continued management attention would be needed to improve site office and laboratory oversight and assessment processes, to improve compliance with requirements and procedures, to ensure that expectations are understood and implemented, to improve implementation of the integrated work management process, and to prevent recurrences of past problems.

At the conclusion of the Assistance Review, most LANL activities were still undergoing validation and few had actually been approved for resumption. Since that time, Independent Oversight personnel have continued to monitor the progress of Los Alamos, and we understand that most activities have now in fact been resumed. The upcoming safety inspection now scheduled for September to November 2005 will evaluate the adequacy of actions taken by LANL to address safety deficiencies identified through the resumption process and the efforts by the National Nuclear Security Administration and the LANL site office in ensuring the effectiveness of the laboratory's efforts.

Turning now to our perspective on security at Los Alamos, our most recent comprehensive inspection was conducted in December 2002. At that time, we had noted improvements in a number of aspects of LANL's security, but we also identified weaknesses in implementation of requirements in such areas as unclassified cybersecurity as well as weaknesses in line management oversight by the Los Alamos site office.

The problems with Classified Removable Electronic Media, which includes disks and other removable storage media—and I will refer to them as CREM for short—surfaced—or, actually, resurfaced in December 2003 when a LANL annual inventory revealed missing items. Personnel from the Office of Security and Safety Performance Assurance and NNSA personnel performed a review within a few weeks of that time and concluded that the most direct cause for the missing CREM was the failure of LANL staff to adhere to

established procedures and the failure of CREM users, which mostly means scientists, to work with designated classified matter custodians. Subsequently, a number of other incidents involving CREM occurred at LANL, including the inability to account for a classified ZIP drive. DOE and FBI investigations of some of these incidents determined that classified information was not actually compromised, but, nonetheless, the incidents highlighted performance problems in accountability systems and compliance with requirements.

Because of the number of these CREM incidents at LANL and other DOE sites, Former Secretary Abraham took aggressive action in July 2004, including a memorandum directing stand-down of all departmental classified operations involving accountable CREM and establishing a set of much more stringent requirements. Senior management also imposed criteria for resuming CREM-related activities, which included training, performance testing, validation by a local validation team, and approval by the former Deputy Secretary prior to resumption.

Further, at the direction of the Deputy Secretary, Independent Oversight was asked to and completed independent validations of the implementation at critical facilities subsequent to their restart, primarily in the late 2004 timeframe.

Independent Oversight's initial post-start review of Los Alamos was performed in November 2004. At that time, LANL had resumed some but not all of their CREM operations. We identified significant improvements in the protection of CREM, but we also identified a number of weaknesses in implementation of the requirements by LANL.

Because of these concerns, we conducted a follow-up validation review in March of this year, at which time the remaining CREM libraries were operating. We found that further improvements had been made, and most of the concerns from the November 2004, review had been adequately addressed. However, we continued to find weaknesses in some LANL facilities with regard to the adequacy of documented procedures, and we are currently in discussions with NNSA regarding the rigor and formality of the NNSA approval of some specific exceptions to departmental CREM policy.

An Independent Oversight comprehensive inspection of LANL's security is scheduled for the November-December 2005, timeframe. During this inspection we plan to take a hard look at CREM implementation as well as other important aspects of their protection strategy.

In closing, Independent Oversight believes that the attention focused on LANL has resulted in significant improvements both in the safety and security arenas. However, the concerns are longstanding and the efforts to change a site culture are difficult, as evidenced by the initial deficiencies and implementation of these new DOE CREM requirements. While we believe that the recent DOE and NNSA actions have been aggressive and appropriate, continued management attention is warranted. Further improvements in LANL's self-assessments and line management oversight by the NNSA and its Los Alamos site office are essential to sustaining the momentum and preventing future events.

This concludes my prepared testimony, and I request that my written statement be accepted for the record. Thank you.

[The prepared statement of Michael Kilpatrick follows:]

Testimony of Michael Kilpatrick
Director, Office of Independent Oversight and Performance Assurance
U.S. Department of Energy
Before the
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives

May 5, 2005

Mr. Chairman and members of the subcommittee, thank you for inviting me to testify today regarding safety and security at the Department of Energy's Los Alamos National Laboratory (LANL).

I am Director of the Office of Independent Oversight and Performance Assurance, which is responsible for evaluating environment, safety, and health; emergency management; cyber security; and safeguards and security programs. As you know, our office reports directly to the Secretary of Energy and has no responsibilities for managing DOE sites or for developing policy. As a result, we are able to perform independent assessments of the effectiveness of programs and provide unbiased information to the Secretary and DOE line managers.

My testimony today will focus on our independent perspectives on the safety and security aspects of the LANL stand-down. Our perspectives are based on our recent assessments, and in particular, reviews we performed in calendar year 2004 following the stand down. As I will discuss, an upcoming safety inspection and an upcoming security inspection are both scheduled for this Fall.

Safety Perspectives at LANL

Our most recent inspection of LANL's integrated safety management program was completed in April 2002. At that time, we concluded that LANL had made improvements in a number of areas, such as development of their integrated safety management program framework and documentation. However, we identified weaknesses in LANL's implementation of their processes in a number of important areas, including adequacy of procedures, procedure compliance, configuration management, and certain aspects of processes for analyzing hazards and establishing safety controls. In addition, we concluded that there

were weaknesses in the feedback and improvement systems of both DOE's Los Alamos Site Office and the contractor, in the important areas of assessments and issues management.

In accordance with our regular schedule, we had planned to perform an inspection of LANL in August-September 2004 to evaluate selected aspects of integrated safety management, including progress in correcting the deficiencies identified in the 2002 inspection. However, because of both security and safety concerns, site management declared the stand-down of most activities on July 16, 2004. Because virtually all site activities were shut down, we began to reevaluate the scope and timing for the planned inspection. Our inspections are performance based, which means that much of our inspection consists of observing work activities. We look at work activities to determine whether they are conducted safely and in compliance with applicable requirements and to gather performance based insights about the effectiveness of the site safety programs and procedures, which we also review so that we have a good understanding of how safety is intended to function and how it is actually implemented at the work activity level. Because virtually no work was being conducted we would not be able to observe work and thus our ability to evaluate safety performance would be limited.

At about the same time, the former Deputy Secretary of Energy, Kyle McSlarrow, asked us to temporarily step out of our normal role at Los Alamos. In doing so, he recognized the importance of resuming operations at Los Alamos as well as the importance of helping the site to more comprehensively identify and correct their problems. Based on the former Deputy Secretary's direction, it was decided to defer the planned inspection and instead perform an "Assistance Review," which was intended to help the Site Office – and by extension the laboratory contractor – to critically assess safety at LANL. Subsequently, we rescheduled the planned inspection for November-December 2005.

Our approach to the Assistance Review was to use our expertise to mentor and coach the Los Alamos Site Office (and, LANL) staff and to provide additional perspective and advice based on our broad expertise and technical depth in conducting critical assessments across the DOE complex. To this end, we applied Independent Oversight resources in coordination with Los Alamos Site Office priorities such that Independent Oversight personnel participated in all phases and elements of the LANL resumption process and in a wide variety of organizations, facilities, and activities. Our inspectors worked with Los Alamos Site Office and LANL personnel to help identify deficiencies with facility conditions, work processes and procedures, and institutional safety programs as well as advising them on assessment processes and prioritizing deficiencies and evaluating extent of condition. With this approach, Independent Oversight team members gained a detailed understanding of specific aspects of the resumption process and, collectively, developed a comprehensive view of the overall resumption process. By integrating and analyzing the information from the individual team members, we were able to provide real-time feedback on the overall effectiveness of the process and to identify needed improvements in the interfaces and integration of the various elements. Our team also assisted the Los Alamos Site Office and LANL staff by providing techniques to strengthen management assessment processes to be more self-critical in evaluating management systems and processes for assuring safe operations.

We found that the resumption process was having a positive impact on improving safety performance by identifying a number of areas requiring LANL management attention and action and by raising safety

awareness across the site. However, we also concluded that significant efforts remained to be completed that required management attention and priority at the highest levels of LANL, the National Nuclear Security Administration (NNSA), and the Los Alamos Site Office. In particular, we noted that sustained and continued attention would be needed to improve Site Office and Laboratory oversight and assessment processes, improve compliance with requirements and procedures, ensure that expectations are understood and implemented, improve implementation of the integrated work management process and to prevent recurrences of past problems.

At the conclusion of the Assistance Review, most LANL activities were undergoing validation and few had actually been approved for resumption. Since then, Independent Oversight personnel have monitored the progress at LANL and we understand that most activities have now been resumed. The upcoming safety inspection scheduled for September to November 2005 will evaluate the adequacy of actions taken by LANL to address safety deficiencies identified through the resumption process and the efforts by NNSA and the LANL site office in ensuring the effectiveness of LANL's efforts.

Security Perspectives at LANL

Turning now to our perspectives on security at LANL, our most recent comprehensive inspection was in December 2002. At that time, we noted improvements in a number of aspects of LANL security but also identified weaknesses in implementation of requirements in such areas as nuclear material accounting and unclassified cyber security, as well as weaknesses in line management oversight by the Los Alamos Site Office, which had a number of unfilled staff positions.

The problems with Classified Removable Electronic Media – which include disks and other removable storage media and are called CREM for short – surfaced in December 2003, when a LANL annual inventory revealed missing items. Personnel from the Office of Security and Safety Performance Assurance and NNSA performed a review within a few weeks and concluded that the most direct cause for the missing CREM was the failure of LANL staff to adhere to established procedures and failure of CREM users (such as scientists) to work with classified matter custodians. Subsequently, a number of other incidents involving CREM occurred at LANL, including the inability to account for a classified ZIP drive. Subsequent DOE and FBI investigations of certain incidents determined that classified information was not actually compromised but the incidents highlighted performance problems in accountability systems and compliance with requirements.

Incidents and concerns in other security topics at multiple DOE sites prompted my office to perform special reviews of protective force management; lock and key control; and security incident reporting at a number of sites, including LANL in 2004. While the April 2004 reviews did identify some overall improvements in protective force operations, the results also indicated the need for continued improvement in protective force response planning and response-related training. The reviews also highlighted some weaknesses in self-assessments, incident reporting, and implementation of lock and key control requirements.

Because of the number of CREM incidents, former Secretary Abraham took aggressive action in July 2004, including a memorandum directing a stand down of all Departmental classified operations

involving accountable CREM. Senior DOE management required all sites to perform a 100 percent physical inventory and accounting of classified accountable CREM holdings and enhance protection through such measures as enhanced custodial controls and stricter requirements (e.g., procedures) for handling CREM. Because LANL experienced a number of incidents, it was required to implement a particularly stringent accounting protocol. For example, LANL was required to centralize their CREM holdings and perform daily CREM inventories. Senior management also imposed criteria for resuming CREM-related operations, which included training, performance testing and validation by a local validation team, and approval by the former Deputy Secretary.

Further, at the direction of the former Deputy Secretary, Independent Oversight completed independent validations of the implementation at critical facilities subsequent to restart, primarily in the late 2004 timeframe. These reviews were performed in coordination with the DOE Office of Security and included review of facility processes and performance.

Independent Oversight's initial post-start review of LANL was performed in October 2004. At that time, LANL had resumed CREM operations for eleven of their twenty newly established central CREM libraries. We identified significant improvements in protection of CREM but also identified a number of weaknesses in implementation of the requirements by LANL. In some cases, LANL policies and practices were not consistent with DOE requirements in such areas as chain of custody and CREM custodial storage.

Because of these concerns, we conducted a follow-up validation review in March 2005, at which time the remaining CREM libraries were operating. We found that further improvements had been made and most of the concerns from the October 2004 review had been adequately addressed. However, we continued to find weaknesses in some LANL facilities with respect to adequacy of documented procedures. We are also in discussions with NNSA regarding the rigor and formality of the NNSA approval of some specific exceptions to Departmental CREM policy.

An Independent Oversight comprehensive inspection of LANL security is scheduled for November-December 2005. During this inspection we plan to take a hard look at CREM implementation as well as other important aspects of the protection strategy, including the protection strategy for the major nuclear material facilities.

Conclusion

In closing, Independent Oversight believes that the attention focused on LANL has resulted in significant improvements, both in the safety and security arenas. However, the concerns are longstanding and efforts to change a site culture are difficult, as evidenced by the initial deficiencies in implementation of new DOE CREM requirements. While we believe that the recent DOE and NNSA actions have been aggressive and appropriate, continued management attention is warranted. Further improvements in LANL self-assessments and line management oversight by NNSA and its Los Alamos Site Office are essential to sustaining the momentum and preventing future events.

This concludes my prepared testimony. Thank you.

Mr. WHITFIELD. Thank you.

We appreciate the testimony of all of you.

Administrator Paul, I find it ironic that, because of mismanagement at Los Alamos, there was incurred additional cost or costs of $120 to $363 million, roughly. A significant part of that money would have been spent on research, but because of the stand-down that was not done. So the government taxpayers are picking up this cost because of mismanagement.

Now I was pleased to hear or to learn that the National Nuclear Security Administration on April 8 did send a notice to the University of California that they were going to disallow $14 million. Now that is a relatively small number when you consider the magnitude of the cost, and I would like to ask you, how did you determine it was only $14 million?

Mr. PAUL. Let me first address your initial comment that it is shocking to you that all of the costs could not be recovered. The ultimate decision, the way these contracts are written, is made by a contracting officer, and there is the standard as to what is an allowable and is not an allowable cost. Unfortunately, at least the legal opinions that we have received so far have tended to indicate that these costs actually cannot be charged against the University but for a couple of exceptions relating to some small contractor claims, for example, and also for the first 2 days of the shutdown where apparently there was no work done whatsoever.

Mr. Wilmot was involved at that exact time and actually issued the notice of intent time based upon some of the small contractor claims; and if the Chair would indulge me, I would like to have him provide a little bit more detail on the analysis that resulted in the exact figure of the $14 million, if that would be appropriate.

Mr. WHITFIELD. That is fine.

Mr. WILMOT. Mr. Chairman, I am the contracting officer for the Los Alamos contract. I also have two other contracting officers that support me in that.

In making the determination, I consulted the Chief Financial Officer of the NNSA as well as my legal staff and the service center legal staff. The decision I had to make was, there was some question as to the reasonableness of the duration of the stand-down and had I made a determination that it was an unreasonable duration, then I could possibly have found additional unallowable costs. But my rationale that I used in making the determination was, since I participated on a daily basis and in effect made decisions every day about the duration of the activities, I participated throughout the period, and so my determination was—is that the length of the stand-down was reasonable. So that was the key decision I had to make. It this is based on interpretation of the contract language.

Mr. WHITFIELD. Okay.

Do you have a further comment, Mr. Paul?

Mr. PAUL. Well, just that the actual standard itself, because you are asking the very questions that obviously I have asked myself when I first started looking at this, the standard apparently in the contracts, in all research and development contracts that we have in the government pursuant to an FAR clause, apparently there is a fair amount of specificity, guidance, requirements, given to you about what you can put in these contracts. The concept of a stand-

down like this is not directly referred to in the FAR, as I understand it, as the lawyers tell me, and it basically falls within the category of allowable costs.

I understand your frustration with it.

Mr. WHITFIELD. Thank you. I am also going to ask unanimous consent that we enter into the record this notice of intent to disallow these costs. If you will enter that in the record.

Mr. PAUL. If I could supplement, Mr. Wilmot, could you point out where we are with that NOI. It is a 60-day determination.

Mr. WILMOT. Yes. There is about 30 days remaining until the laboratory responds back.

Mr. WHITFIELD. Mr. Paul, another question for you.

In your testimony, you state that you believe that a culture of noncompliance existed within the laboratory, and you also stated this is a culture that we and laboratory senior managers are trying to reverse.

Could you describe quickly, succinctly, what you think are the root causes for this culture of noncompliance that has come into existence at Los Alamos?

Mr. PAUL. Well, I mentioned earlier I tended to concur with the comment that one of the members said earlier, that the blame cannot be laid to a single person, so I want to be careful to not fall into that trap, as the Congresswoman pointed out accurately. But it does come down to leadership, leadership of an organization that is the contracting organization, but also leadership of the government that is the overseer, over a long, long period of time.

A culture is something, in my view, that is built up through past practices and patterns, conduct that is allowed, that is condoned, that is acquiesced to, over a long period of time. Leaders send signals that their subordinates receive very clearly, and they adjust their actions accordingly, and if leaders send messages that certain conduct is acceptable, then they are facilitating it. They are fostering it. They are breeding it.

Mr. WHITFIELD. I guess it is easy to be complacent when you have been managing something since 1943, and you have never had to compete for it.

Mr. PAUL. Exactly, so that is not to blame a particular person or a particular group of people, but a trend that has occurred over a long period of time. It is trend now to try to taking a particular person or particular group, but, quite frankly, the events that occurred I think are the byproduct of many years of atrophy, if you will, atrophy in seeking excellence, in expectations on the business side, the six factors that Mr. Friedman laid out.

Here is the thing. We have got the best science in the world there. There is a standard of excellence when it comes to science. The toughest problems resolved by man on the face of the Earth happen on that plot of land by these great Americans, and they have done so for over 6 decades. But in terms of the management and the culture of compliance, we haven't quite gotten to that standard of excellence.

I think we, me, the guy you are looking at right now, shares some of that responsibility. I haven't been here long, but every day that I am here, I am more responsible if it is not fixed.

Mr. WHITFIELD. Mr. Friedman, in a recent report that you had, you had identified approximately $30 million of improper payments to the University of California and some contractors have reimbursed DOE for these inappropriate payments.

Has the University of California reimbursed NNSA for any improper payments identified in this report?

Mr. FRIEDMAN. First, Mr. Chairman, let me say that the $30 million I think you alluded to includes the three laboratories under the University of California. However, 50 percent of the money is applicable to Los Alamos, 40 percent to Livermore and 10 percent to Lawrence Berkeley national lab are tear. We mated a recommendation that those expenses be reviewed for cost allow built. We think they are highly questionable and should be recovered. But at this point, the decision, we have not gotten the decision from the Department, so therefore, to the best of my knowledge they have not been recovered from the university.

Mr. WHITFIELD. So there has been no payment whatsoever?

Mr. FRIEDMAN. To the best of my knowledge, that is correct.

Mr. WHITFIELD. That is something still under review at this time?

Mr. FRIEDMAN. Well, our responsibility is to make recommendations to the NNSA, which we have done. The ball is in the NNSA's court on this issue at this point.

Mr. WHITFIELD. Mr. Paul, do you want to respond to that, or Mr. Wilmot?

Mr. PAUL. I am going to have to get back with you on that. I have seen some of the written explanations of those costs. I have to be candid with you and tell you I am not exactly sure what procedures we are taking to address that. I know that it is happening through the service center, and I just, if I could take it for the record and get back to you.

Mr. WHITFIELD. I would appreciate you getting back to us on the exact status of that.

Mr. Kilpatrick, you point out in your testimony that CREM management at Los Alamos resulted in a decision to order a shut down of all CREM operations at all DOE sites in order to conduct a full evaluation.

Most weapons facilities like Sandia and Lawrence Livermore were able to restart their operations within a couple of Mondays. Why did the restart of the CREM operations take so much longer at Los Alamos?

Mr. KILPATRICK. There are several reasons that contributed to it, not the least of which that it was an especially large undertaking at Los Alamos in that they both had a very large inventory of CREM items, numbering upwards of 80,000 items at one point. But also because of the decentralized and geographically disbursed nature of how it is that they manage their CREM. That latter factor is a lot of what contributed to the many problems that they experienced over the last few years, but notably in the early part of 2004.

As a result of that, unlike some other sites, they basically were in a position where they had to step back and completely redesign a system and process for managing CREM, and hence the development of this concept of 20 centralized libraries, each of which required the development of not only institutional procedures, but li-

brary-specific local procedures, training custodians and training users on those and putting in place all of the physical controls that were associated with that.

The other thing that is worth noting is that, for good reasons, the deputy secretary actually imposed more stringent requirements on Los Alamos than what was imposed for the rest of the departmental sites and, in particular, the requirement to do daily inventories of CREM, which substantially complicated their resumption effort.

Mr. WHITFIELD. Okay. Thank you. At this time, I will recognize Mr. Stupak for his question period.

Mr. STUPAK. Mr. Chairman, I am going to defer to Ms. DeGette. She is catching a plan. I will defer to her.

Ms. DEGETTE. Thank you so much for your comity, Mr. Stupak.

I just have a couple of questions. Mr. Paul, the Chairman talked about your written testimony where you talked about the culture of noncompliance within the laboratory. Frankly, that is what I was talking about in my opening statement.

You said in your oral testimony there is a group that finally gets it, and I guess you are referring to the management, because there is obviously to me a big group that doesn't get it. I have the blog right here, and it is page after page after page after page of anonymous postings of people griping. Frankly, I have a daughter who is in high school. I am appalled, the level of these complaints are like high school student complaints. They are not like, the management is doing this particular thing that respects one of our high-level nuclear facilities wrong. It is about, "Gee, I don't like Nanos and I wish he would go to hell." That is the level of complaining in this blog. Would you agree with that?

Mr. PAUL. It is hard to disagree.

Ms. DEGETTE. So here is my question: For the rest of you, have you all come across this same kind of culture of noncompliance? Mr. Wilmot, I know you are probably the closest to this on the ground.

Mr. WILMOT. I have been through culture transitions both at Idaho and Savannah River, and I have seen instances where the culture has deteriorated and then had to regain momentum and improve.

Ms. DEGETTE. Do you see that happening at Los Alamos right now?

Mr. WILMOT. I see a small light at the end of the tunnel. The people I deal with in operations and facility management I think truly are what I think the group of people that Jerry is talking to when he sees they get it. So there is a group that operates the facilities and particularly the high hazard nuclear operations that really do get it. But there was brought up a mention of this recent accident in March, or incident in March, that is something I would be willing to talk more about.

It seems to be something that is telling us that we still have got that serious problem. We still have it. But I would like to talk about that incident if indeed it were possible.

Ms. DEGETTE. That is what we need to go into a closed session for?

Mr. WILMOT. You don't need to.

Ms. DEGETTE. Maybe there might be some time in a few minutes. But my question to you really is, do you think that this culture that you have seen at other places and now you are seeing can be fixed at Los Alamos?

Mr. WILMOT. Yes, ma'am, but it will take a considerable amount of time. I can say that my experience in Idaho was many years, and Savannah River was 5 to 7 years.

Ms. DEGETTE. You will be pleased to know that we have been dealing with this for a great amount of time here, too, so how much more time is it going to take? Mr. Paul, do you have some sense?

Mr. PAUL. Well, Congresswoman, let me be clear. My comments earlier were with respect to the ranking member's comments that I had read or listened to some time back where he said he heard over and over and over that they finally get it, and I was simply pointing out that the people at this table testifying before you who have tried to tackle this situation, they get it.

Ms. DEGETTE. You know what, I think you are right. When I visited with Admiral Nanos, I was very impressed. But you are not going to fix the situation until you change the culture, and I think all of you would agree, is there anybody here that doesn't agree with that statement? All of you would agree with that.

So here is my question, and that is what I was trying to get at with Mr. Wilmot, how do you change that culture with all of these anonymous people who are the ones supposedly doing this work?

Mr. PAUL. I think some of the—it is going to be a spectrum of tools, some of which we have tried to exert already, the message that we sent through the adjustment of the fee, the pushing back on the allowability of the costs, the competition itself I think sends a message. But those things in themselves won't do it. It is also going to require leadership, leadership on behalf of the government overseers, ourselves, IG, Defense Board plays an extraordinarily important role, SSA—that is independent oversight—and NNSA, but also the lab leadership.

Ms. DEGETTE. Let me stop you there. Have we seen this kind of culture of contempt for safety and security at the other labs, like Sandia, Lawrence Livermore and Pacific Northwest? Have we seen those problems there?

Mr. PAUL. I cannot tell you that there is evidence that it is exactly the same. Look, every facility has a different personality, a different culture. The culture of noncompliance that has resulted in the data that you have been monitoring for years now is somewhat unique at Los Alamos. I think everybody understands that.

Ms. DEGETTE. So your answer would be no?

Mr. PAUL. That is correct.

Ms. DEGETTE. Okay. Part of the problem is, I think, we have to face that at Los Alamos, and we have to say, why is that? If we are not seeing that kind of culture at these other labs and we continue to see it at Los Alamos, no matter who the leader is of Los Alamos——

Mr. PAUL. That is right.

Ms. DEGETTE. Every time, folks like you come to testify before us, you recognize the problem. So it is not just that, and you know this, it is not just at your level.

Mr. PAUL. Just to put a finer point on it, you know, I run what we call the Leadership Coalition, a collection of our Federal site managers from every one of our facilities within NNSA, and we meet once every 2 months. For the last several meetings, we spent a pretty fair amount of the time in that leadership coalition where I sit in the middle of all of them and get each one of them to dedicate some of their FTEs, some of their resources to go to this one facility, to help it get better.

So that, in a sense, answers your question. Yes, this one is different. I am pulling from all of them——

Ms. DEGETTE. Well, you know what, I don't think you should take this personally, which you seem to be doing, because it is not—frankly, you understand that there is a problem.

What I am getting at with you and Mr. Wilmot and others is, what do we do—when I was in Los Alamos talking to the relatively new management right after the shutdown last summer. They got it. They were working on it. Well, that has now been almost a year and not only have things gotten worse, not gotten better, they have gotten worst in some ways, because, as of June, July—I guess it was July when I was there last year—people didn't yet hate Mr. Nanos like they apparently do now. So I don't see the solution on the horizon.

Maybe Mr. Wilmot has something. He did say he saw a little light. I am just hoping it is not a train coming toward you.

Mr. WILMOT. I hope so, too. Let me just comment that I think that the solution is to carry the message and win the hearts of all of the members of the laboratory staff and convince them that this is truly an effort that if you improve your safety statistics and your operational capabilities, you don't run plants to failure, you have efficient business systems, that this is going to benefit and it is going to free up more funding to allow them to do more science.

Ms. DEGETTE. How do we convince them of that?

Mr. WILMOT. Well, my sense is, during the restart, they felt like this was imposed on them rather than participating in it. So somehow we have got to reverse that feeling and create the ownership.

Ms. DEGETTE. How do we do that?

Mr. WILMOT. Clearly, it has to be a very strong message from management that they are listening. The scientists have a unique issue here, because they have very small laboratories. And it is very onerous for them to try to look at the regulations themselves individually for each small task they have. We have got to try to tailor our approach to this, which is something we haven't done yet.

Ms. DEGETTE. Can I stop you? Is that different than these other facilities?

Mr. WILMOT. Actually, it is a little bit. At Savannah River, for example, we were a production plant. We had a small R&D facility there called Savannah River Technology Center. We had a unique issue to deal with that technology center, and it took a little longer there, because we weren't sure how to get science more engaged in the conduct of operations and doing things in a manner that is more acceptable by our standards.

Ms. DEGETTE. But what about the other comparable labs, Sandia, the ones I have mentioned? Is it so different at Los Alamos than at those labs?

Mr. WILMOT. My truth is that the institution has failed its staff. They have failed to convey the message of the importance of these particular disciplines, like project management, conduct of operations and all of those necessary things that you have to have in today's environment to run nuclear facilities. I believe the institution has failed its staff in getting the message to them and holding them accountable for those things.

Ms. DEGETTE. The institution? Who?

Mr. WILMOT. Me, too. I have been here a year now, and I am devastated by the accident—the incident that occurred in March. That is me. I own it. And what we have got to do——

Ms. DEGETTE. You know, the devastation continues year after year. I am empathetic with you. I think it is very frustrating. But I think it goes deep into the institutional ethos at Los Alamos. I don't know what we do about it. I am not sure any of you do either.

Mr. Chairman, thank you.

Mr. WHITFIELD. The gentleman from Texas is recognized for his question period.

Mr. BURGESS. Thank you, Mr. Chairman.

Maybe, if we could just continue on that line for just a moment and forgive me, because I am new, so these questions may sound naive. Mr. Wilmot, the institution has failed its staff. From what I am hearing here today, it sounds like you need new staff to me. That am I just being woefully naive in that assumption?

Mr. WILMOT. Not at all naive, but I can assure you that every individual I have worked with, I have been very impressed with the people at the laboratory, and I have met a lot of good people. But my sense is, it is not an institution. They have not worked as an institution. There have been small groups. It was almost more like a university where you have small organizations.

Mr. BURGESS. I agree with that statement. But it is a very serious business of our Nation's nuclear program that they are running, not getting their own education.

Mr. WILMOT. Let me just comment that the light I was referring to, what I have seen since about February, is what I consider to be an institution struggling to come together. I have seen it at the very top, at the director and deputy director level and the senior management team. I think my sense is that they are getting the message, but this does not happen overnight, because there are management systems that are not in place to help them to be an institution.

Mr. BURGESS. Well, I know we are not supposed to go into sports metaphors, but they always say, you fire the coach because you can't fire the team. I remember once down in Dallas when Don Nelson fired the team, and it actually worked out. I can't help but think that might be part of your solution.

I want to come back to you in a minute because you asked for some time to talk about the incident that happened on your watch.

But, Mr. Friedman, if we could just talk for a second about—you talked about, I guess it sounded like some credit cards that were

used inappropriately and some people actually are incarcerated because of that?

Mr. FRIEDMAN. Yes, sir.

Mr. BURGESS. And then the next paragraph you talked about some budgetary errors that looked a lot more significant, like the difference between the credit cards was $40,000 and the budgetary effort was $23 million.

Mr. FRIEDMAN. $30 million actually.

Mr. BURGESS. Did someone go to jail for the larger error, or have they, or will they?

Mr. FRIEDMAN. Let me clarify one thing, Mr. Burgess, if I can. The purchase card, the total amount of purchases made by purchase card at Los Alamos is a very, very significant number. I don't have it at instant recall, but it was in excess of $100 million a year. So it is not an insignificant amount of money. So violations, misuse of the purchase card, is a serious, serious matter, and I want to keep it in perspective.

With regard to the other issue, there were miscalculations made at the time the contract was signed, and the taxpayers are going to foot the bill of about $30 million at this point, unless there is some further action taken. So I think it is a significant issue.

Mr. BURGESS. Who is responsible for that further action? Is that our action here at this committee level?

Mr. FRIEDMAN. The way we work under our charter, Mr. Burgess, is that I report to NNSA, and the contracting officer decides, to quote a phrase. And we have issued our report. We have taken a position on $30 million. It is over a 5-year period. It applies to all three laboratories, as I defined earlier, and the ball right now is in the court of NNSA to make a decision.

Mr. BURGESS. Will you be so kind as to follow up with this committee in writing as to the disposition of that? Are you allowed to do that?

Mr. FRIEDMAN. We, as a matter of course, without a request from you or the committee, we keep a constant watch on those recommendations and determinations as to how they have been resolved.

Let me be very candid with you. We suspect, and this is not my decision, we suspect that $29 million of the $30 million, it probably is unlikely that the Department will decide to try to recoup that from the university. That is my guess, because there was agreement at the time of contract initiation. I don't agree with that interpretation necessarily, but I think that is where the Department probably will come out.

There is an additional $880,000, which is the third component, the third leg of this thing, we think clearly should be recouped from the university.

Mr. BURGESS. Thank you.

Mr. FRIEDMAN. It is unequivocal.

Mr. BURGESS. Mr. Wilmot, use my remaining time——

Mr. WHITFIELD. I think Mr. Paul wanted to comment.

Mr. PAUL. I beg your pardon. Just briefly, if I may, to respond to your earlier question about, whose responsibility is it? It is the NNSA, and we manage that contract through our service center. The colloquy I was having with the Chairman a little bit ago about

the $30 million and our discrepancy, our chief financial officer at the service center is currently reviewing the Inspector General's report and trying to determine what portion of that could be claimed, you know, as a charge. I don't know the result of that. What will happen is, he will issue his recommendation. We will make a management decision. A management decision will be made through the contracting officer, who is the manager of the Los Alamos site for the Federal Government. That is Mr. Wilmot. So we will follow up and tell you where we are at with that process.

I think the Inspector General is correct, that some of those decisions are, to some extent, burdened by the decisions that were made let's say in early 2000. So we are working through that.

Mr. BURGESS. Very well.

Mr. Wilmot, if you would, let's use what time I have left to allow you to discuss what you were trying to get to earlier. It sounds like the safety incident—my goodness, painters sent into the vault that had no special training—it almost sounds like premeditated assault to me. But, by all means, let's hear what you have to say about that.

Mr. WILMOT. Thank you. I do appreciate the opportunity.

As I said, I was quite devastated by that. What I wanted to convey was that, as Mr. Paul had stated earlier, when we resumed activities at the end of January-early part of February and declared resumption started, we essentially had roughly 400 findings that we had to make sure and have corrective actions for or some sort of compensatory measure in place.

Now, I didn't have the staff to go out and validate all of that in the field, so we relied on the signature of an associate director in each of the organizations to sign off that, yes, barely, we had said what we were going to do. That is in February. This event occurred in March, early March.

We asked the laboratory to do an investigation, to understand all of the things that went wrong in that particular event. In the meantime, I had an investigation team that went out and validated all of the corrective actions, these 400 or so findings—excuse me, the 400 findings that we validated. We found that only eight of those had not been validated or done as people signed off and said they had.

Guess what? This organization that had this accident occur under its auspices was the one that I think actually even five of the findings were not—actually they did not correct them.

Not that I feel good about it, but I just don't want you to get the wrong impression about the overall resumption because of this. Because they said they had fixed them. When I came back and validated after the fact of the accident, of course, they had not done what they said they did, with the signature of an associate director.

So that is why I am devastated. That is the concern to me. So everything that has gone wrong in the laboratory could be found in that report. It is that serious. Those management errors that are there are egregious, no question, sir.

So, but the point to you is, and to the panel, is that I don't want you to take away the message that we failed in resumption. I am not happy about what happened, believe me, but I do believe if that organization had implemented what it said it was going to do for

resumption, we might not have had that incident. That was my point, and I thought it was very important for the subcommittee to hear that.

Mr. BURGESS. Okay. What sort of accountability have you extracted from the individuals responsible?

Mr. WILMOT. We have a conditional approval clause, just as I did for the laser accident or for the CREM incident. I am not saying, right now, I am going to do it, but I certainly have that available to me, and this is of that importance. What that allows me to do is, of the earned fee, I can take up to 100 percent of that earned fee away from them.

Mr. BURGESS. I encourage you to do so.

Thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. Mr. Stupak is recognized for 10 minutes.

Mr. STUPAK. When you say you can take up to 100 percent of their earned fee, that just means the lab loses some money, right?

Mr. WILMOT. Yes, sir.

Mr. STUPAK. What about the individual who failed to sign off?

Mr. WILMOT. Honestly, one of the actions that the laboratory has committed to is to look into the personal practices of the individuals.

Mr. STUPAK. So if you want accountability and you put the lab back on line and the associate director is supposed to sign off and you are led to believe they did, you go back and check, they didn't, where is the accountability of this associate director who is supposed to sign off rather than punishing the lab? But not punishing the associate director?

Mr. WILMOT. I will not second guess what the laboratory should be doing here, but I am certainly going to be watching their actions on this. I was on the airplane——

Mr. STUPAK. Wait a minute, let's not be watching. We have been through this so many times. We get this all the time: I will be watching. Then you come and tell us another story, and this terrible accident happened in March, and it is a serious accident when you have radioactivity being leaked out and people being exposed to it. And we are just going to watch it? Where is the accountability?

Mr. PAUL. May I?

Mr. STUPAK. Sure.

Mr. PAUL. If I may, Congressman, I think what Mr. Wilmot is saying is he doesn't have the direct authority to take a direct——

Mr. STUPAK. Who does?

Mr. PAUL. The laboratory is their employer.

Mr. STUPAK. Who is the employer? UC?

Mr. PAUL. That is correct.

Mr. STUPAK. But isn't your job to oversee it? Aren't you supposed to be the management and director? Wouldn't you be managing UC?

Mr. PAUL. Exactly. And I think that is what Mr. Wilmot is trying to convey.

Mr. STUPAK. So if UC is not doing it, then it falls on your hands then, correct?

Mr. PAUL. Correct.

Mr. STUPAK. So what are you going to do about this associate director?

Mr. PAUL. I believe what Mr. Wilmot is saying is that the mechanism through which we can manage is through that employer down—when he says he is going to be watching it, I don't think he means passively. He means that that is a criteria he is going to use when he makes his decisions about whether to meet out some other—about whether to invoke other options.

I believe that is—I don't want to lead the witness, but I believe, Congressman, that is what he is pointing out, not that we are going to passively watch this, but we have to stay within the bounds of law.

Mr. STUPAK. Let me ask you this then: What is so special at Los Alamos that we go through this year after year, that what is being done in Los Alamos, why can't it be transferred to other labs? In other words, why do we need Los Alamos? What is in the science that can't be transferred somewhere else?

We are moving some stuff up to Colorado. We moved some stuff to Lawrence Livermore. We have this—what—46-acre facility, and we get back here all the time with complaint after complaint after complaint. We are trying to change a culture? I guess we are not social scientists.

How are we going to do this? Why do we have to have this lab, seriously?

Mr. PAUL. A perfectly legitimate question. We ask that question. As good managers we have to ask that question about every single facility on a regular basis and justify everything we are doing with taxpayer dollars.

We currently have a complex-wide study being conducted with an outside group to look at that very issue, what facilities are necessary for the defense nuclear complex of the future? We should receive by the end of June, I believe. I think we will have a written report by the end of June on that, and I am sure one of the issues—I haven't read the report, obviously, but I believe one of the issues is an analysis of every single facility and what activities could be moved.

You specifically asked Los Alamos. There is some unique infrastructure there that would be very expensive to move and very difficult to move. Just the environmental impact statement alone on moving the Legacy Research Facility that has existed for the United States of America for over 60 years, the IS alone on that would be the biggest one ever in this country. It would be significant, facilities like DARHT and TA-55 and CMR.

Mr. STUPAK. Hopefully, we will get to the point in this country where we don't need all of these nuclear labs. So if we have so many problems with this one lab and if the work can be transferred to the other labs, why not do it?

Mr. PAUL. I think when we get the complex study, there will be an opportunity—we all look forward to that complex study, and I know from your interest in these issues, you will, too.

Mr. STUPAK. But I don't want to know about consolidating government services. I am saying we have a lab here that is a constant problem, that is costing us $30 million here. Let's see, shutdown was $119 to $300-some million it was estimated. We are not

quite sure yet. You have objected to the $14 million. $119 was the low end. $367 I think was the high end. So take away $14 million, so it is $357-some million it cost us. We talk about $30 million here on charge cards that people can't sort of account for.

Why do we need this one then? Why can't we transfer those things out of here? The science? Is there any really unique science that can only be done at Los Alamos and nowhere else?

Mr. PAUL. I think you have to have a national laboratory. If you are asking me——

Mr. STUPAK. We have a couple more, we have Lawrence Livermore, right? Sandia.

Mr. PAUL. There has historically been a thought that peer review, that having more than one adds a lot of value to big science. You have to have that intellectual tension, if you will, that peer review. One lab doesn't do it for you.

Mr. STUPAK. We have four of them besides Los Alamos, don't we? Sandia, Lawrence Livermore, Brookhaven, GNNC.

Mr. PAUL. Certainly, the concept of moving a laboratory to another facility is not beyond the ability of man to analyze, and we will look into this.

Mr. STUPAK. How do you change this? This is all these blogs. I just looked at one of them. Look at that: "Roger that to the petition." in other words, this person wants Mr. Nanos gone. "you can understand that phrase, can't you, Mr. Nanos? I can't call you director or doctor because I can only do this if I respect the person and the position for which they hold and perform." this person obviously doesn't.

So you can't change that. You are not going to change this person. His mind is made up. And you can go through 46 pages here of them, and they are all sort of like this.

Mr. Burgess is right. You can't fire the team, and we can't. But maybe we can transfer the science, and they can transfer if they are interested in working for the government and doing the job. And if they are honorable people, as they claim they are in these blogs, they will continue their research somewhere else.

What is wrong with that? Maybe we won't be back here next year, and again and again and again. I haven't been here that long. I have been here 13 years. I have been 12 years on this committee, and every year, I am here getting the same thing. I always get all these nice answers that it is leadership. It is management. It is this. It is that.

I am just saying, why do we have to have this place any longer? Can anyone really tell me what is so unique that we can't do anywhere else what we are doing at Los Alamos?

By your silence, I take it there is nothing that we couldn't transfer somewhere else and still keep our national security and our research and that all done, right?

Mr. PAUL. Look, anything that man does, he can undo. I don't want to reduce this to philosophy, but anything man does, he can undo. I mean, the rhetorical question, could you move something from one place to another, I guess theoretically you can.

This particular facility, this particular lab and the facilities that are there, could you move everything there into the desert somewhere——

Mr. STUPAK. I am not talking about desserts. Why can't we move it to other labs?

Mr. PAUL. You could certainly do a cost-benefit analysis of doing that, and I think that is exactly what we are studying. That is the message I am trying to convey to you. I am trying to violently agree with you, that we need to be looking at all of these issues, and that is indeed exactly what is being done as to every single facility, trying to look into the future at what are the critical missions for this complex, how do they need to be done and what are the locations where we would need to do them.

Mr. STUPAK. And have you identified any critical mission that is being performed at Los Alamos that can't be done somewhere else in the United States by one of our labs or the military?

Mr. PAUL. Well, when we see the complex study, we will have a better handle on that.

Mr. STUPAK. Okay. If we can, the decision was made last year to shut down all the operations at the lab, and this decision was ordered by Mr. Nanos and, ultimately, may have cost taxpayers millions of dollars. In retrospect, was this a good decision, why or why not, and would Los Alamos have been shut down, for example, by NNSA had this not been ordered by the director? Can you give me your opinions on that?

Mr. PAUL. I can tell you that even prior to the shutdown, NNSA was having discussions with the director about doing it itself based probably more on safety grounds than on security. But, certainly, they both played into it.

The decision to stand down itself we stand by. I think this committee and the committee chairman has stated that he stands by that decision as well. The question of duration, it indeed took longer to resume, to stand back up, about twice as long than what was expected.

This organization believed that it was better to do it right than to hold to a particular time line. A very serious undertaking here to go through that level of reform, what we are trying to do here, 3,000 findings, it was very difficult, and it did take a heck of a lot longer.

The management system is a business. They atrophied so bad, Congressman, you just didn't have an infrastructure in place, and you had to create it out of whole cloth in a lot of ways. And it just took longer.

Mr. STUPAK. You agree with this decision to shut her down?

Mr. PAUL. Yes, at that stage, I think it had to be done.

Mr. STUPAK. Mr. Wilmot, you agree it had to be shut down?

Mr. WILMOT. I had discussions with the director and the deputy director about a rolling shut down at one time, and I actually gave him a draft paper of my concerns. Yes, sir, I do.

Mr. STUPAK. Mr. Friedman, do you want to add anything? Dr. Eggenberger?

Mr. EGGENBERGER. Yes, I will add a little bit. The Board does nuclear safety at defense nuclear facilities only, so some of these issues that we are talking about we don't——

Mr. STUPAK. Would not be in your area, right. How about from your area?

Mr. EGGENBERGER. From our area, if the Board would have thought that there was an eminent threat to health and safety, we would have recommended to the Secretary of Energy to shut it down. We did not do that.

Mr. STUPAK. Okay. Do you think Mr. Nanos was correct in shutting her down or doing a rolling shutdown as it was thought of, or do you think—what do you think on that?

Mr. EGGENBERGER. You talked about the program of resumption and listed the items. That program had started before the shutdown. It was in its infancy. And as far as our individual concerns that I had mentioned in my summary, most of those, with a few exceptions, were rolled up into that program. So we believed that our interests were being taken care of if that program were implemented in a proper sense.

To back up a little bit, the laboratory generally is very good at responding to our concerns and understanding our concerns and putting together a plan to address them. They are generally very good at that. The issue that generally comes up is the implementation, and implementation, in our view, is the responsibility of management at the laboratory and it is also the responsibility of the oversight by the Department of Energy. If that was done properly, we saw no reason why the laboratory could not continue on.

Now, one other thing that I would like to mention is, in 2004, we wrote to the Secretary a recommendation, and it is called Recommendation 2004-1. 2004-1. The Secretary has accepted that. And what that recommendation says or the requirements in it are that the Department of Energy take a more proactive role at headquarters in their interactions with their site offices such that they can understand and implement the safety programs that they have.

Now, I am talking from a safety point of view.

Mr. STUPAK. Let me ask you this then on the safety program, DOE's Office of Environment, Safety and Health issued proposed industrial and construction worker safety regulations in January 2005 in response to the Defense Authorization Act of 2003. They were intended to parallel the Price-Anderson nuclear safety regulations.

But tucked into this, put out by DOE safety regulations here, were 10 separate exemptions to these rules, none of which were authorized by Congress and not part of the OSHA regime.

Some of us feel that many of these exemptions are going to usurp the rules put in place. Are you saying that the Board agrees with this approach? Could these exemptions actually lead to a reduction in current levels of worker safety there?

Mr. EGGENBERGER. My understanding is this is outside the nuclear safety regime and is in the safety regime that more addresses the OSHA-type items.

Mr. STUPAK. But it also deals with the nuclear, like that vat they were cleaning out there with the release of the radiation and the paint chips and all that that I spoke about in my opening. That may be OSHA, but you have to have a technician trained in handling radioactive material in order to do it. And when you put 10 separate exemptions on nuclear safety regulations, it may be OSHA, but it came from the Board. So is the Board more concerned about complying with OSHA than safety regulations?

Mr. EGGENBERGER. That didn't come from us.

Mr. STUPAK. DOE's Office of Environment, Safety and Health. I know it is not you, but you were just talking about it. You were just talking about DOE's Office of Environment, Safety and Health. So I thought maybe you knew something about this.

Mr. EGGENBERGER. No, I am talking about nuclear safety and implementation of nuclear safety, which is a line operation that runs from the Secretary to the NNSA chief down through the line down into the sites and results in the overseeing of the laboratories.

Mr. STUPAK. Mr. Chairman, you have been more than kind. Thank you very much.

It seems like we just keep going around and around here. But this is a lab involved with nuclear research. We are not making Rice Krispies here. I really wish we would either fix this lab or end it. I just don't see much future, other than more hearings for us.

Mr. WHITFIELD. Just to follow up for one moment here, you referred to a complex study in which are looking at alternatives and options available. When do you expect this study will be completed?

Mr. PAUL. Chairman Hobson had actually put language in the last Defense Authorization Act requiring this complex study. NNSA was on its way to creating it at the time. The original deadline I believe was the end of April.

It was difficult to assemble the exact collection of people with the right qualifications to perform that study, so it didn't get started until a little bit later than what was anticipated.

To answer your question, I believe that Chairman Hobson has said he was going to relax the due date on that for an oral presentation. I am not totally sure, but I think an oral presentation at the end of May and a written at the end of June. I don't think a final decision has been made on that.

Within the next couple of months, I believe we are going to see the complex study which truly takes a holistic analytical approach to looking at every single facility within the NNSA complex and trying to match that up with a NNSA of the future and come up with some different options for condensing, consolidating and really analyzing what the footprint should be and where.

Mr. WHITFIELD. So one possible option would be what Mr. Stupak suggested, that some research could be transferred elsewhere?

Mr. PAUL. I want to be very careful here, because I have not had that specific discussion with any member on the complex study, but my understanding is they are looking at all options.

Mr. WHITFIELD. Okay. We will certainly be interested in looking at the results of that study.

One other thing I would like to do, this is the corrective action performance report dated April 27, 2005, which basically shows that the University of California is already behind on 92 post-start corrective actions contained in the corrective action plan. This document breaks down Los Alamos by division, and you will find on page three here that the manufacturing systems and methods division accounts for a total of 43 of the 92 corrective actions thus far.

I would just ask you directly, Mr. Wilmot, can you explain what the manufacturing systems and methods division does? And why is

it so far behind on its corrective actions? And I am asking unanimous consent to enter this performance report into the record.

Mr. WILMOT. I would ask that I be able to provide that in detail in a written comment to you. I think that would be better serving your time.

Mr. WHITFIELD. Okay. That will be fine. Anyone else have any questions?

Mr. Burgess?

Mr. BURGESS. Dr. Eggenberger, just a brief follow up on your testimony. You talked about fire protection upgrades must be completed. I guess these were not completed by the University of California. They excluded the fire protection management from their post-restart corrective action plan. Is that right, and should that have been in there?

Mr. EGGENBERGER. I will comment on that a little bit, if you will permit me.

Mr. BURGESS. I wish you would.

Mr. EGGENBERGER. As I mentioned to the ranking member, the OE project was in development prior to shut down, and it addressed most of our things. Now, at one time, my understanding is the fire protection program was in the operational efficiency project, and as they redid that and finalized it, they decided to take the fire protection out of that because it was basically to be done by one separate department and that they would handle it that way.

Now, it isn't that fire protection is out. It is still in, but it is not being handled as part of the operational efficiency program. So our understanding is those items are still being done at the laboratory. So it isn't lost.

Mr. BURGESS. Very well.

On the issue of the slow pace of efforts to stabilize nuclear materials at Los Alamos, specifically the University of California—I am still with you, Mr. Eggenberger—I believe the University of California has extended the original plutonium stabilization date from 2002 to 2010 at an additional cost of $78 million.

Why is it important that the University of California accelerate plans to stabilize nuclear materials, and are there risks to workers if these stabilization plans are not accelerated?

Mr. EGGENBERGER. This stabilization of excess materials began in 1994, at the laboratory under our Recommendation 94-1, and at that point in time, we asked around the complex that actions be taken to stabilize those materials which caused the most risk to the people and to the workers.

At Los Alamos, they did that, up to a point. They did the high-risk items, and then there was what was left. What was left was then prioritized again, and in our view, the highest risk of what was left was at the end of the line rather than bringing it up to the first.

They have redone that and brought the high-risk items up. And given the budgets and given the risk, since it is going down as we proceed out, we believe that the schedule is reasonable to go until 2010.

One other, as far as other risks, are that buried in the transuranics, I guess it is TA-54, I mentioned the Quick to WIPP

Program, which removes those and gets them down to the Carlsbad facility. That is going again, and it is not quite as fast, I believe, as DOE would like it to be, but it is on the way. And there is a lot of effort being put in by NNSA to continue on that. So, we are reasonably happy with that.

Mr. BURGESS. Very well. In the brief time I have left, Mr. Friedman, do you have any thoughts that you would like to share with us?

Mr. FRIEDMAN. Well, I have been looking at Los Alamos for a long time, Mr. Burgess, and I share the frustration with the members of the subcommittee as to making progress.

I suspect—I do want to comment, probably the smartest thing for me to do would be to stay out of the line of fire, but let me indulge my passion for danger.

Mr. Stupak, to go back to a point you made earlier, I have audit inspection investigation responsibility for the entire departmental laboratory system, including the other weapons laboratories and the science laboratories and others. And no one should—there are 14,000 people working at Los Alamos, and you may have a few bloggers, a number of bloggers, who may be expressing personal angst. And that is legitimate. They have a right to do so. But the vast majority of people there are extraordinarily dedicated, Nobel Prize winners, Enrico Fermi Prize winners. They are an extraordinary group of people.

I am not suggesting they can't be moved, the function couldn't be moved. It probably could be physically, but they are an extraordinary group of people. And my job is actually going out and being a critic, and here I am saying something in support of them and in support of the mission.

To compare Los Alamos and say it is imperfect with the other labs being perfect would not be a correct characterization. There is no doubt that we have a more disproportionate number of problems from an IG perspective at Los Alamos than any other laboratories.

However, there are problems that exist across the complex, throughout the laboratory system, and it may be in part inherent in dealing with large numbers of scientists, who are very dedicated people but may not have a commitment to business systems that we would like to see in the normal course of action.

But it would be unfair, I think, to simply say these people or this operation is impure and the others are pure. There are problems throughout the complex, many of which mirror perhaps at a lesser intensity the problems that you find at Los Alamos.

I appreciate your giving me the opportunity, Mr. Burgess. I wanted to clarify that point.

Mr. BURGESS. Thank you.

Mr. WHITFIELD. Mr. Stupak.

Mr. STUPAK. Now I do have a question. Then how do you fix it? Really? Seriously. I don't want leadership. I don't want management. How are you going to fix it? Either fix it or close it. This is just crazy.

Mr. FRIEDMAN. Mr. Stupak, I have appeared before you on several occasions, and we have had animated discussions.

Mr. STUPAK. I get animated about this stuff. I mean, there is so much duplication in our labs. If you take a look the budgets and

that, there is a lot of duplication. I don't think we need all of this. And every time we come here, it is a couple of hundred million, a couple hundred million there, a couple hundred million there, and no one is accountable.

You know, 12 years ago, I was the one talking about, there seems to be this culture out there—I had been out there a couple of times—about noncompliance; we will do it how we think it should be done, The heck with rules, regulations, Congress and everything else.

Now, today, the witnesses were using the word "culture." and unless you are going to get some social people, social engineers, whatever you want to call them, out there to fix this place, let's close it.

Really, seriously, I really believe if you move one or two tasks out of Los Alamos, they will get the message. Either clean her up or we will shut her down. I don't know what else to do. At least that is an idea. You guys got any idea on how you are going to fix this, other than new management?

Mr. FRIEDMAN. Well, let me say this: I respect your point of view on this. There has been no issue, no action that has been taken as momentous and as earthshaking in the 20-plus years that I have been looking at Los Alamos and indeed the laboratory system than recompeting this contract. And that may well be the defining moment as to whether Los Alamos can be salvaged in a way that would satisfy you and the other members of this subcommittee and others throughout society.

Mr. STUPAK. So, I mean, what would a new manager do different? Let's say, give it to the University of Texas. Since the Chairman is from Texas, we will give it to that university. Well, Mr. Burgess, you are from Texas. I would rather see it go to the University of Michigan.

But let's say, give it to Michigan, give it to the University of Texas; what really is going to change?

Mr. FRIEDMAN. Well, Mr. Stupak, if I knew the answer to that, I would be bidding on the contract, proposing on the contract myself. It is going to be the responsibility of all the proposers. And if the University of California proposes as well to come up with a proposal that is comprehensive, complete, represents a change from the status quo, in my business—I am in the business of advocating change, not accepting the status quo. That is the business I am in. And the status quo at Los Alamos is unacceptable. I don't think there is any question about that.

So if I were on the panel that evaluates the proposals that the NNSA will be receiving, I would be looking for innovation, substantive, significant, deep-seated innovation in the way that Los Alamos goes about its business, as a primary criteria for making the decision as to who will manage Los Alamos for the next 7 years or decade or whatever the case might be.

Mr. STUPAK. I just think, if you have a model—You know, I am from Michigan, so we know about cars. If you buy a model, year after year, you buy an Oldsmobile, and it keeps breaking down, keeps breaking down, keeps breaking down, you don't go back and keep buying an Oldsmobile. Sooner or later, you go buy maybe a

Buick or maybe go buy a Datsun. I don't know what the heck you buy.

But it just seems to me that we are just repeating the same old things. And I don't see anything so unique and exclusive to Los Alamos that it can't be done somewhere else. If we've got this problem for I don't know how many years it has been now—I have only been here 12 years. I hate to see, like Mr. Dingell has been here forever, and he has got much more frustration than I have.

Mr. WHITFIELD. I do think it is significant that we do have an RFP out there, and we cannot afford the status quo anymore.

I would ask also unanimous consent that we keep the record open for 7 days for any members who have opening statements. I would also ask unanimous consent, our staff submit to the NNSA three questions relating to removal of material at TA-18, material at TA-55, and another question relating to Los Alamos TA-18, additional questions. You all submitted answers. So I am asking unanimous consent that we enter this into the record as well.

With that, this meeting, this hearing——

Mr. STUPAK. Could I ask one more question? Do we have any blogs in support of Mr. Nanos? We don't, do we?

Mr. FRIEDMAN. No, no.

Mr. STUPAK. We do?

Mr. FREIDMAN. I am not in the blog business. I have been accused of a lot of things, but not that. There are people who have entered the blog system in support of Dr. Nanos, yes.

Mr. STUPAK. I didn't want just the negative blogs in there. Thanks.

Mr. WHITFIELD. This concludes today's hearing. Thank you very much for your time and testimony. Of course, we will be having another hearing with the University of California and a whistleblower panel.

[Whereupon, at 4:09 p.m., the subcommittee was adjourned.]

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