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DEPARTMENT OF ENERGY  
NATIONAL NUCLEAR SECURITY ADMINISTRATION

IN THE MATTER OF A PUBLIC COMMENT  
HEARING TO PREPARE AN ENVIRONMENTAL  
IMPACT STATEMENT FOR THE OPERATION OF  
A BIOSAFETY LEVEL 3 FACILITY AT  
LOS ALAMOS NATIONAL LABORATORY,  
LOS ALAMOS, NEW MEXICO

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TRANSCRIPT OF PROCEEDINGS  
December 15, 2005  
4:00 P.M.  
Senior Stroke Center  
735 Vietnam Veterans Memorial Road  
Española, New Mexico 87532

FACILITATED BY: MARGO COVINGTON

REPORTED BY: Betty J. Lanphere, NM CCR #70  
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A P P E A R A N C E S

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1		I N D E X	
2	1.	Appearances	Page
3	2.	Participants	
4		Sheri Kotowski	6
5	3.	Reporter's Certificate	21
6			
7			
8			
9			
10			
11			
12			
13			
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## 1 P R O C E E D I N G S

2

3 December 15, 2005

4

5 MR. PERGLER: We are now formally  
6 opening the public comment response for the public  
7 scoping meeting for the operation of the BSL facility  
8 at Los Alamos National Laboratory, New Mexico.

9 Currently we have got one stakeholder present  
10 who has agreed to have a round table discussion that  
11 will not be recorded by the court reporter, and he will  
12 provide written comments. And if others come in we  
13 will provide the same opportunity or if there is need  
14 we will give formal presentations. Thank you.

15

16 (Spanish version given.)

17

18 MR. PERGLER: We are now going to  
19 conduct the formal part of the public scoping meeting  
20 for the environmental impact statement for the BSL-3  
21 facility proposed for operation at Los Alamos National  
22 Laboratories.

23 MS. KOTOWSKI: My name is Sheri  
24 Kotowski. So the first thing I want to know is I want  
25 you to explain again how you shifted from finding of no

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1 significant impact to doing a stand-alone environmental  
2 impact statement.

3 MS. CUMMINGS: This is Lisa  
4 Cummings speaking. We had started on an informal  
5 session with Sherry and she asked that this be put on  
6 the record, and I had talked to her a little bit before  
7 off the record and I will explain again.

8 In 2002 we issued an environmental assessment  
9 before we had built the facility. At that time we  
10 issued a finding of no significant impact which meant  
11 we did not need to go do an EIS. We had looked at the  
12 environmental impacts in this environmental assessment  
13 and we had found them to be insignificant so that the  
14 EIS, environmental impact statement, would not be  
15 required, and we proceeded to design and build the  
16 facility after we had issued that environmental  
17 assessment, and that finding of no significant impact.

18 The facility was completed sometime in the  
19 summer or fall of 2003. After it was completed, I am  
20 not sure what the instigating event was, it might have  
21 just been looking at it in preparing for operations but  
22 there was a concern about the fact that it hadn't  
23 actually been analyzed for the spot that it had  
24 actually been built on. It was built on the sloping  
25 side of a canyon on fill to level out the side of the

1 canyon, so at that point in time we decided that we  
2 needed to take a look at that more carefully and we  
3 withdrew the finding of no significant impact and that  
4 happened in January of 2004 that we withdrew the  
5 finding for the operation of the facility.

6           The environmental assessment had analyzed  
7 both the construction and the proposed construction and  
8 the proposed operation of this facility, and we had  
9 already built it. We had some concerns so we withdrew  
10 the finding of no significant impact with regard to the  
11 operation of the facility.

12           And in the time period since then we have  
13 decided that the appropriate level of NEPA review to do  
14 now is a full blown environmental impact statement.

15           There is various reasons that was reached.  
16 One of the main reasons was to respond to the publics  
17 concerns, they had a lot of concerns about the facility  
18 and they expressed a desire that we do an environmental  
19 impact statement just on the BSL facility.

20           MS. KOTOWSKI: The next thing I  
21 asked about was if your program had expanded  
22 significantly, or how it had expanded significantly  
23 also that you would have to have a full blown  
24 environmental impact statement.

25           MR. PERGLER: Was that an

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1 expansion?

2 MS. KOTOWSKI: Was, in order to,  
3 how do you justify needing to expand the environmental  
4 impact statement in relationship to expanding the scope  
5 of the work that would be done in the facility? I  
6 think that was how I had asked the question.

7 MR. PERGLER: It seems to me that  
8 is really a DOE policy question where they listen to  
9 the stakeholder concerns along with some of the new  
10 information that transpired after the original EA and  
11 policy was issued and headquarters decided it would be  
12 appropriate in this case to go with an EIS. It was not  
13 based on expansion of activities.

14 However, since the original EA was issued, we  
15 have gone back and looked at the language there, and  
16 some of the language which is constraining in terms of  
17 BSL-3 operations, so the direction that we have is to  
18 analyze the operations of the BSL-3 facility under the  
19 guidelines of the BMBL, which is the institutional  
20 standard prepared by CDC and NIH. Does that answer  
21 your question?

22 MS. KOTOWSKI: I think for now, why  
23 don't you continue talking about what you were talking  
24 about before we switched to the formal hearing about  
25 how sharps were involved now whereas before they

1 couldn't be used.

2                   MR. PERGLER: I had previously  
3 mentioned that the original EA had some constraints in  
4 the language for the example I used was language  
5 contained on page 42 of the EA that specified that no  
6 sharps would be used.

7                   For clarity, sharps are defined as capillary  
8 tubes, slides and needles. Under the guidelines of the  
9 biosafety and microbiological and biomedical  
10 laboratories what we commonly refer to as the BMBL,  
11 BSL-3 laboratories commonly operate with that  
12 equipment, may operate at that equipment. So again,  
13 that will be our bounding analysis so that the  
14 operations and equipment specified in that manual will  
15 be the bounding situation again for our analysis from  
16 the EIS.

17                   MS. KOTOWSKI: By including these  
18 types of objects, I see that you really significantly  
19 increase, you are putting the public at risk because we  
20 are talking about objects that are invasive into the  
21 flesh of an organism or of an animal. I mean the  
22 capillary tubes, they are used to do the pin pricks or  
23 whatever and then you draw the fluid out from inside  
24 and needles, and so to me if you are limited by not  
25 being able to use these you are extremely limited to

1 the kind of procedures you can do and when you add  
2 these things to your list you have really greatly  
3 expanded what you can do within the laboratory.

4 MR. PERGLER: Thank you, and that  
5 is the appropriate scoping comment and we will sure to  
6 address your comment throughout the EIS process.

7 MR. KOTOWSKI: Okay. Do you want  
8 to just continue explaining doing your presentation?

9 MR. PERGLER: I will go into the  
10 presentation that I have got. Again I am Chuck  
11 Pergler, and I am the NEPA Project Manager for Tetra  
12 Tech.

13 Tetra Tech is under contract to the NNSA to  
14 prepare the environmental impact statement. What is  
15 important to note is that Tetra Tech, neither Tetra  
16 Tech nor myself have any vested interest in the outcome  
17 of the decision to be made by NNSA.

18 We benefit in no way. One of the things here  
19 tonight that is of such value to us is to listen to  
20 comments by you the public that will give us an  
21 indication on whether, on what issues to focus our  
22 analysis on and to help the NNSA develop their  
23 alternatives.

24 Currently we have identified three  
25 alternatives for the EIS. The first is the no action

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1 alternative.

2           The no action alternative is to find in  
3 regards to the building, and the building would be used  
4 as office space or a library or something of that  
5 nature and could perhaps even be used as a laboratory  
6 but not for biosafety operations.

7           The preferred alternative as identified by  
8 NNSA is to operate the existing facility at the BSL-3  
9 level.

10           The third alternative is to operate the  
11 facility at the BSL-2 level. That would be conducting  
12 operations and working with organisms in such a way  
13 that they don't pose a threat, a respiratory threat  
14 causing illness to the operators in the laboratory.

15           Where you can specifically benefit the  
16 process here tonight is to give us specific comments  
17 regarding the range of reasonable alternatives.

18           If you can suggest something that we haven't  
19 thought of, we would greatly appreciate it. More  
20 importantly, any of the issues associated with those  
21 alternatives, if you can convey those in a certain  
22 specificity, that would be of great to us all as well.

23           One of the important things to recognize here  
24 is this facility is built so that limits the range of  
25 alternatives that you could suggest that would be

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1 helpful.

2           For instance, if you were to say don't build  
3 the facility, the facility is already built. If you  
4 said build it somewhere else, again that doesn't meet  
5 the purpose and need as specified by NNSA.

6           So specifically your comments addressing  
7 operations really gets to the heart of developing other  
8 alternatives, or if you give us specific examples of  
9 what you are concerned with, a comment such as I don't  
10 want the facility to operate, really does us no good as  
11 the analyst here, but if you hone down your concern to  
12 I am concerned that if the facility operates it will  
13 release something into the air that could affect my  
14 health. That allows our team, the Tetra Tech team to  
15 look at the issues associated around airborne releases  
16 and subsequent impact on human health and safety.

17           So the more specific you get your comments  
18 the more helpful for us.

19           The formal scoping period has been extended  
20 until January 16th, so you have got additional time to  
21 comment. It was extended due to the request of  
22 stakeholders and Congressional representatives.

23           Additionally we are considering and we  
24 believe we are going to be successful in offering a  
25 tour to those public that would be interested in seeing

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1 the facility. The schedule we are currently under is  
2 to issue the draft EIS in the spring of 2006 to be  
3 followed in late 2006 by the final EIS and subsequent  
4 record of decision. Thank you.

5 DR. SCHWADE: My name is Nathan  
6 Schwade, and I work at Los Alamos National  
7 Laboratories, and I am here to answer any technical  
8 questions that you have about the facility and proposed  
9 operations of the facility.

10 Just a little bit about me. I came to the  
11 laboratory about two years ago. I came from a medical  
12 school. I have a Ph.D. but I was in the medical school  
13 at UT Southwestern, came to Los Alamos National  
14 laboratory to help with the health effects and national  
15 security.

16 As you probably know, Los Alamos, bioscience  
17 community at Los Alamos has a long history of studying  
18 health effects in biomedical research. They started in  
19 1945 with ionizing effects on human radiation. They  
20 moved on and had several, what I think are very  
21 important contributions to the biomedical community.

22 They developed the first scintillation  
23 counter. That is something that is used to measure  
24 radioactivity in people's blood. It was a new  
25 development. The biomedical community here developed a

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1 machine called the floctometer. That is a machine  
2 that is in every hospital laboratory today, sorts  
3 cells. They then became involved in the human genome  
4 project. The Department of Energy was responsible for  
5 starting the human genome project where we categorized  
6 the human genome.

7           That mission then was later shared with the  
8 National Institutes of Health and actually industry  
9 also got involved in that. It continued on by  
10 categorizing one complete human chromosome, chromosome  
11 16, and then the life science community at the  
12 laboratory continued in developing databases. They  
13 developed databases that have helped in the treatment  
14 of HIV and vaccine development in influenza. There is  
15 a lot of computing capability at the laboratory that  
16 they have continued to use and the latest one is the  
17 influenza.

18           This is just using high-powered computing and  
19 database facilities that are available to health care  
20 researchers all across the world.

21           The core competency of this life science  
22 division has been around what we called forensics,  
23 detective work on genetics. It's been a natural  
24 progression from the work that we did in the genome  
25 project being able to database and we compare those

1 databases to existing microbes as a core competency of  
2 the laboratory.

3           During the anthrax letter incident in the  
4 United States this laboratory was involved in actually  
5 helping give information on possible origins of that  
6 strain so there is a core of competency of a group of  
7 people who are very good at these kinds of forensic  
8 work and have the ability to use existing technology at  
9 the laboratory.

10           That work has continued and this particular  
11 facility, what is a BSL-3? As we described it's  
12 outlined in the BMBL. It's a containment facility.  
13 The facility is designed to protect the worker, the  
14 public and the environment, and the types of operations  
15 that are going to go on in this facility, and  
16 aerosolization would be an off normal event. What do I  
17 mean by an off normal event. It would be something  
18 that doesn't happen routinely.

19           MS. KOTOWSKI: But it would  
20 happen? There are plans for it.

21           DR. SCHWADE: No, there are no  
22 current plans for it.

23           MS. KOTOWSKI: Under the  
24 environmental impact statement, the scoping of it,  
25 would it include looking at aerosolization projects?

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1 DR. SCHWADE: The scoping of the  
2 document will use the BMBL and the BMBL will define the  
3 boundary conditions for --

4 MS. KOTOWSKI: Is that one of the  
5 boundaries you talked that you aren't planning on doing  
6 it, I am asking if the capability under this  
7 environmental impact statement would include looking at  
8 aerosolization.

9 DR. SCHWADE: Aerosolization is one  
10 of the things that you can do in the facility. The  
11 facility isn't designed and was not designed from the  
12 ground up to do any kind of inhalation work into the  
13 lungs of experimental animals. There are no  
14 experimental animals in the facility. There will not  
15 be any experimental animals in the facility, it's not  
16 designed that way.

17 MS. KOTOWSKI: But that will be a  
18 parameter, that will be a boundary. Aerosolization  
19 will be included.

20 DR. SCHWADE: It would be examined,  
21 I believe.

22 MR. PERGLER: That's correct. Did  
23 that answer your question?

24 MS. KOTOWSKI: Yes.

25 DR. SCHWADE: So that about sums up

1 the presentation. That is what we do, that is where  
2 our interests are. If you have any specific clarifying  
3 questions, I might be able to answer them.

4 MS. KOTOWSKI: Since I haven't read  
5 all of the materials, and a lot of this is new to me, I  
6 don't have any questions. That was my main question  
7 was about the aerosolization and if that was within the  
8 parameters of the environmental impact statement.

9 I think the other thing, that another thing I  
10 want to know about, and I don't know who would answer  
11 this question, is that my understanding is that the  
12 CDC, the Center for Disease Control is authorized to  
13 come in and not just tour the facility but see how the  
14 facility is operating, and I understand that the CDC  
15 has never visited the existing facility, the operating  
16 facility, and I would like to know why and when they  
17 plan on doing that, and if the CDC has also toured the  
18 facility, that the new facility that hasn't opened yet  
19 to see how thoughtfully they think that it was designed  
20 and built according to the parameters that the facility  
21 is going to be used.

22 DR. SCHWADE: So it's more than  
23 inspection. We have a license with the Center for  
24 Disease Control. The CDC has visited the laboratory on  
25 numerous occasions and has recently left the laboratory

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1 for an inspection within the past two months. We had  
2 an inspection on the BSL-2 facility.

3 MS. KOTOWSKI: Of the existing  
4 laboratory.

5 DR. SCHWADE: Absolutely. They  
6 will inspect and certify and grant licensure for this  
7 facility should it be opened to operate at a BSL-3  
8 facility. It will be a requirement that they license  
9 the facility before we begin operations.

10 MS. KOTOWSKI: Emergency  
11 management. I know that there is still the accident  
12 scenario that happened approximately one year ago that  
13 involved a plume of hazardous materials that was a  
14 surprise emergency plan by the NNSA, no, the Defense  
15 Nuclear Safety Board, Defense Nuclear Safety Facility  
16 Board, and there was a lot of questions surrounding  
17 that accident because there was not the capability to  
18 handle the accident in a reliable way that it wouldn't  
19 affect public health and safety. I would like to know  
20 how your project is incorporating emergency planning  
21 and what kind of emergency plans.

22 DR. SCHWADE: I will let Chuck  
23 answer that about how the EIS will examine the scope.

24 MR. PERGLER: What we are going to  
25 look at is the emergency service capability for any off

1 normal event that owned the lab and accident. Things  
2 that we would be looking at is how are first responders  
3 trained, are they aware of what activities are going on  
4 in the laboratory, how are hospitals, what is the  
5 notification procedures for the hospital, are they  
6 prepared to handle this sort of event, so all of that  
7 will be addressed in the EIS.

8 I don't have the answer for you but during  
9 our process that is certainly one of the analyses that  
10 we will be carrying through.

11 MS. KOTOWSKI: Have you developed  
12 any accidents scenarios?

13 MR. PERGLER: We have not but we  
14 will. The previously done EA did have accident  
15 scenarios in there. We are going to piggyback off of  
16 that information and based on comments received may  
17 further expand it.

18 DR. SCHWADE: When we had the  
19 meeting there were questions and answers and there was  
20 a formal comment period, and we should offer you that  
21 as well. If you have comments that you want on record  
22 that are not necessarily questions but they are issues  
23 that you want recorded.

24 MS. KOTOWSKI: No, I think I will  
25 save that for my written comment. I also understand

1 that there is somewhere like 350 biosafety level 3  
2 facilities. And why do we need another one?

3 DR. SCHWADE: So that would be  
4 examined also in the EIS, but the answer to your  
5 question is what I was saying before about the core  
6 competencies at the laboratory. It's not just a  
7 facility. It's a tool in a tool box that allows the  
8 scientists to do their work to contribute to public  
9 health.

10 MS. KOTOWSKI: But why not move the  
11 scientists to an existing facility instead of spending  
12 all of the taxpayers' energy and money with the whole  
13 process when there are facilities that can handle  
14 this? It seems like a real waste of money to me.

15 MR. PERGLER: That is exactly the  
16 kind of comment we need and we will consider your  
17 comment in the EIS process.

18 MS. KOTOWSKI: I think that's good.  
19 Thank you.

20 MR. PERGLER: Thank you. Is there  
21 are no other individuals here desiring to make formal  
22 comments so we will again commence with the informal  
23 session where the conversations will not be recorded by  
24 the court reporter.

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(Informal session concluded at 8:00  
p.m.)

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REPORTER'S CERTIFICATE

I, BETTY J. LANPHERE, RPR-CP-CSR, a Court Reporter and Notary Public, with offices in Santa Fe, New Mexico, DO HEREBY CERTIFY that the foregoing transcript is a complete and accurate record of said proceedings as the same were recorded by me stenographically and were reduced through computer-aided transcription to print by me or under my supervision.

DATED at Santa Fe, New Mexico, this 15th day of December, 2005.

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Court Reporter

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