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UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

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MEETING OF THE ADVISORY COMMITTEE ON
CONSTRUCTION SAFETY AND HEALTH

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Friday, April 17, 2009
Room N-3437A
Frances Perkins Building
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C.

The meeting was convened at 8:37 a.m.,
FRANK L. MIGLIACCIO, JR., Acting Chairman,
presiding.

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PRESENT:

EMPLOYEE REPRESENTATIVES:

FRANK L. MIGLIACCIO, JR., Acting Chairman,

WALTER JONES

THOMAS L. KAVICKY

EMMETT M. RUSSELL

EMPLOYER REPRESENTATIVES:

WILLIAM R. AHAL

SUSAN G. BILHORN

THOMAS R. SHANAHAN

DANIEL D. ZARLETTI

STATE REPRESENTATIVES:

KEVIN D. BEAUREGARD

STEVEN D. HAWKINS

PUBLIC REPRESENTATIVES:

THOMAS A. BRODERICK

JEWEL ELIZABETH ARIOTO

FEDERAL REPRESENTATIVE: MATT GILLEN

DESIGNATED FEDERAL OFFICIAL:

NOAH CONNELL

MICHAEL M.X. BUCHET (Alternate DFO)

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ALSO PRESENT:

ROBERT BIERSNER, DOL Solicitor's Office

VENETTA CHATMON

CHARLES W. HIGDON

1 PROCEEDINGS

2 (8:35 a.m.)

3 ACTING CHAIRMAN MIGLIACCIO: Before we go
4 on, I want to reconfirm the dates for July. It is
5 the week of the 26th. That'll be our next meeting,
6 July, the week of July 26th. 27th will be the
7 travel day, 28th, 29th work groups, 30th, 31st full
8 day or full committee.

9 We've got a busy morning schedule here, so
10 we'll go ahead and get started. Our first speaker
11 coming on the stimulus package construction funding,
12 from McGraw Hill Construction, will be Randy
13 Sherwood.

14 STIMULUS PACKAGE CONSTRUCTION FUNDING

15 MR. SHERWOOD: Good morning.

16 ACTING CHAIRMAN MIGLIACCIO: Good morning.

17 MR. SHERWOOD: Good morning, everyone.

18 As introduced, my name is Rusty Sherwood. I'm Vice
19 President of McGraw-Hill Construction. Again, it's
20 a pleasure and a privilege to be with you all this
21 morning to share our observations on the stimulus
22 bill as it reflects specifically on U.S.

1 construction.

2 The agenda that we have -- and I realize
3 we have a brief 30 minutes, so we will keep it short
4 and to the point. Just a quick introduction on who
5 we are, McGraw-Hill Construction, and why we're in a
6 position to share our perspective on the impact of
7 stimulus on U.S. construction. We'll talk
8 specifically on stimulus. What we have attempted to
9 do is to distill down the entire content of the
10 stimulus bill specifically as it relates to
11 construction. So we'll share those observations
12 with you.

13 We will then overlay the anticipated
14 impact of stimulus on the 2009 and 2010 forecast for
15 construction activity in the United States, and then
16 wrap up with just access or understanding of some
17 additional resources out there to perhaps help the
18 panel as well as our guests find additional
19 information specific to the construction, the impact
20 of construction by stimulus.

21 We are a part of the McGraw-Hill
22 Companies, just for the sake of context. We are

1 part of the information and media services side of
2 the corporation. The common link, the common
3 thread, is providing essential information and
4 insight to our respective markets. Construction has
5 actually been in the U.S. marketplace for more than
6 a century and we presently serve approximately a
7 million customers around the globe, providing a
8 series of analytical data and publishing services to
9 guide the insight and intelligence of our
10 marketplace.

11 Why I think we're in a position to share
12 some of these insights with you this morning is the
13 fact that we do a unique approach to forecasting.
14 We've actually been doing forecasts for about 40
15 years now. We build our forecasts off of a
16 proprietary database. Unlike most forecasts that
17 work from a put-in-place database perspective, ours
18 comes from a starts database, from our own starts
19 data. It gives us a unique ability to forecast
20 potential opportunities before they actually start.

21 So enough on who we are, but hopefully
22 that gives you a little understanding of who we are

1 and why we're in a position to share this.

2 So stimulus, the big picture. Certainly
3 this is a chart or a series of charts none of us
4 like to look at, but it's the reality of our
5 situation. We can see the impact on unemployment
6 based upon this recession, and certainly the impact
7 on our GDP. Clearly, this administration believes
8 that there is three parts to the recovery. We're
9 going to speak on one of the three legs this
10 morning, the stimulus bill. But I will make it very
11 clear that as we project out what we believe is the
12 potentials for construction activity over the next
13 couple of years, much of it depends upon all three
14 parts of the recovery plan coming together.

15 So while we certainly see an immediate and
16 definite impact by the stimulus bill on construction
17 activity, in terms of a sustained long-term recovery
18 on U.S. construction it really depends upon all
19 three legs of the stool to be completed. But as you
20 can see, our GDP pattern -- and this is I believe
21 most economists, certainly all of the McGraw-Hill
22 economists, believe that we will finish the year

1 somewhere between a negative 2.5 and a negative 3
2 percent GDP, but with improvement coming in the
3 fourth quarter, and then rebounding to approximately
4 2 percent in 2010.

5 If there's any good news in the current
6 state of affairs, it's certainly low inflation.
7 Take a look at what has happened with the consumer
8 price index and its plummet. That's primarily
9 driven, obviously, through energy costs. if you
10 take a look at the core consumer price index, it's
11 not quite as dramatic, and that's the reason why
12 we're not concerned as of yet about deflation,
13 because again the core appears to be relatively
14 stable, but certainly heading downward as well.

15 I could probably show you 50, 60 different
16 charts to try to explain where the concerns are in
17 terms of the long-term outlook for construction, but
18 this is probably the best slide that I could provide
19 to you, simply because it really speaks to the
20 current state of access to construction financing.
21 What you see here is a chart of lending standards
22 relative to commercial industrial loans and

1 commercial real estate loans.

2 It's essentially a survey of the
3 percentage of changes that are taking place by
4 lending officers relative to access to credit. As
5 you can see here, we're operating still at
6 unprecedently high levels of tightness. So as a
7 consequence -- and you do see some loosening of
8 that. Certainly you can begin to see the impact
9 perhaps to some degree from TARP, perhaps also from
10 some of the early things that have been done with
11 the financial recovery plan.

12 But certainly, until banks get back into
13 the business of lending it certainly is going to
14 have a buffering or a dampening effect on the long-
15 term outlook on construction. Now again, this is
16 not to suggest that the stimulus is not having an
17 impact in the near term, because it is. But it
18 certainly suggests that this is a key piece to the
19 longer term health of construction activity.

20 The other constraint certainly is state
21 and local finances. I don't know that I need to
22 belabor this. I think this room probably knows the

1 state of the states and their coffers, and certainly
2 part of the reason why a substantial portion of
3 stimulus is flowing to the states.

4 So along comes the American Recovery and
5 Reinvestment Act of 2009, a \$787 billion bill. This
6 is probably the statement of the blinding obvious,
7 but it definitely is going to stimulate more
8 construction activity over the next two and a half
9 years. We anticipate it's going to have about a 7.5
10 percent impact in total construction this year, with
11 hopefully -- and we're pretty confident in this --
12 about another 10.5 percent in additional total
13 construction activity.

14 So substantial impact on construction
15 activity, and, as you'll see in a moment as we get
16 into the various construction segments, some
17 segments of construction which were in a downward
18 trajectory in terms of growth over the next few
19 years have now turned into a positive trajectory,
20 again due to stimulus financing.

21 So going a little bit deeper into exactly
22 what is in the American Recovery and Reinvestment

1 Act, enacted the 17th of February, \$787 billion over
2 ten years, basically broken out as \$308 billion in
3 appropriations spending, almost \$212 billion in tax
4 cuts, 267 in direct federal spending.

5 According to Engineering News Record,
6 which is our publication, we estimate that of the
7 787, approximately 131 billion of that will be
8 direct construction spending. Now, you could debate
9 give or take a billion or so of that 131 depending
10 upon how you define some of the capital programs,
11 things like airport baggage screening, how much of
12 that is equipment versus actual installation and so
13 forth. But we feel pretty good that that 131
14 billion is a pretty good approximation, a pretty
15 solid approximation of what portion of the stimulus
16 bill is coming our way for construction.

17 In terms of surprises, certainly on the
18 plus side was the 8 billion going for high-speed
19 rail corridors. For those of us who travel along
20 the Northeast, that's very welcome. Certainly the
21 unpleasant surprise was no line item for school
22 construction. There's some talk about will there be

1 a second round of stimulus that might directly
2 impact schools. It remains to be seen. I think
3 there's an awful lot presently to digest between the
4 three key aspects of the recovery before additional
5 stimulus programs are considered.

6 Taking it a little bit further, in terms
7 of the 130 billion, 40 billion of this is flowing
8 into the states. 90 billion of it will be managed
9 through the federal agencies. As you can see here -
10 - and we'll get into more of the details in a moment
11 -- certainly infrastructure is the prime benefactor.
12 At the state level approximately 27 billion is
13 flowing for highways. Add another about 8 billion
14 for transit and a good portion going into
15 environmental infrastructure, primarily clean water.

16 On the federal agency side, about 90
17 billion is flowing to them. Certainly the
18 Department of Energy is a prime benefactor there,
19 again dealing with alternative energy as well as \$11
20 billion going towards smart grid. The GSA, about
21 \$5.5 billion flowing their way. A large percentage
22 of that is going towards green building upgrades.

1 Department of Defense, again upgrades as well as
2 energy improvements, medical buildings in the VA at
3 about 1.25 billion, with both new and renovated
4 medical facilities.

5 Again taking it a little bit further, and
6 I won't read all of these details for you, but again
7 you can see that both transportation and the
8 environment are significant benefactors to the
9 stimulus bill, and you certainly see this flowing
10 over the next, again, between now and the next two-
11 plus years.

12 Certainly energy, in addition to the smart
13 grid, renewable energy loan guarantees to again
14 continue to encourage alternative energy
15 entrepreneurship. Then certainly tax credits for
16 renewable energy projects. That was extended to
17 continue to perpetuate what alternative energy
18 initiatives are out there.

19 Buildings, again also benefactors to the
20 stimulus bill, again primarily in the GSA and the
21 DOD space. HUD certainly will be managing a fairly
22 substantial amount of money in public housing

1 capital funds. Again, schools; we mentioned a
2 moment ago there's no specific line item for them.

3 Looking ahead -- and some of this is
4 already actually past tense. Some of this has
5 already transpired. The federal reports in terms of
6 expenditure plans were due 30 days after enactment,
7 which obviously has taken place. GSA, they were
8 required to provide a detailed plan by project after
9 enactment, so that's basically happened. Obligation
10 deadlines -- and this is the key difference here,
11 because one thing is to provide a detailed plan;
12 another thing is to actually meet the deadline on
13 how you're going to obligate the funds. Again, you
14 can see, depending upon the agency and-or where the
15 money is flowing, there are some different
16 deadlines, interestingly enough.

17 We see with the GSA they need to obligate
18 by the end of September of next year the other --
19 well, a portion of that; and then the balance of it
20 by 2011. The VA needs to essentially utilize their
21 funds between now and September of next year. DOD
22 has these funds available through the same time

1 frame.

2 So again, you can see that there's some
3 unique requirements, and this is where you have to
4 really get into the specifics as to what are the
5 requirements based upon which agency, which
6 department is managing the dollars.

7 The big thing to point out to you, on the
8 bottom of the screen, is the use it or lose it
9 aspect at the state level. They certainly have to
10 move along in terms of obligating their funds.
11 Unobligated funds will then be reassigned by the
12 U.S. Department of Transportation. Again, there's a
13 huge requirement on transparency in terms of
14 reporting out exactly how projects are progressing,
15 as you would expect.

16 There is a buy-American provision in the
17 stimulus bill. It's pretty all-encompassing at the
18 outset, but there are exceptions. It certainly is
19 making a statement that no stimulus funds can be
20 used unless all the iron and steel manufactured
21 goods are produced in the U.S. However, it also
22 makes the statement that projects need to be

1 competitively bid and materials have to be
2 available, and if either is an issue then
3 alternatives can be considered, as well as it
4 certainly does not trump any existing U.S.
5 obligations under international agreements.

6 So there are definitely some clearly
7 stated exceptions to the buy-American provision.
8 This actually was in Wednesday's edition of ENR.COM
9 and it really now begins to speak to the realities
10 of moving these projects forward. One of the
11 realities that is becoming clear is that there is a
12 high volume of project activity that needs to be
13 managed within a very small span of time. So as a
14 consequence there are certain departments who are,
15 shall we say, stretched in terms of procurement and
16 project management talent.

17 So you have definitely some departments
18 that are already taking a look at the private sector
19 in terms of helping them project manage as well as
20 procure the appropriate contracting firms for the
21 work. So, interesting to see as this thing begins
22 to take flight where some of the additional

1 opportunities begin to emerge as a consequence of
2 the, shall we say, the very tight time line to
3 produce an awful lot of work.

4 All right, so let me go through this very,
5 very quickly just to give you a sense of the
6 magnitude the stimulus is going to have on total
7 construction activity. What we've tried to do for
8 you here is to give you a sense of what portion of
9 the total construction starts are going to be
10 impacted by stimulus financing. Certainly the
11 stimulus portion is the orange portion of each of
12 the following bar graphs.

13 You can see in terms of overall total
14 construction we are and we continue to be in a
15 downward trajectory in terms of overall construction
16 activity. We're looking at another 15 percent
17 decline in 2009. Candidly speaking, gentlemen and
18 ladies, it certainly could be worse, again depending
19 upon again the access to construction financing.

20 We feel relatively confident in this
21 projection right now, but again we're looking at the
22 banking industry as one of the keys to maintaining

1 this forecast. We do believe, though, if those
2 things come to pass that we will see a turn in this
3 downward trajectory going into 2010.

4 Certainly, as I mentioned to you earlier,
5 highway and bridge construction are big winners
6 under the stimulus program. Again, what's
7 interesting to note here is if you take away the
8 orange portion of the bars in 2009 and 2010 you
9 would see that we would essentially be in a downward
10 and then a flattening trajectory here, even though
11 we all know the need for infrastructure improvements
12 across the country. But with stimulus, you see that
13 we are now moving in a significant upward
14 trajectory, 15 percent growth in 2009 and another 10
15 percent in 2010, approximately \$60 billion worth of
16 highway and bridge construction in 2009 alone.

17 Environmental public works, another big
18 benefactor to the stimulus. Again, you can see the
19 trajectory without the stimulus financing and you
20 see the positive impact from it. We're looking at
21 an 8 percent improvement over 2008, which was a
22 slight improvement over 2007, and then another 10

1 percent gain in 2010.

2 Other public works, again we talked about
3 the transit and the rail funds. Again, that one has
4 a more dramatic downward curve without stimulus, and
5 again you can see the significant impact of stimulus
6 financing, particularly in the out year of 2010.
7 It's pretty significant dollars and a significant
8 aspect of the construction industry that's
9 benefiting as a percentage of total starts due to
10 stimulus.

11 Electric utilities. You know, electric
12 utilities are one of those very cyclical segments of
13 construction. You go through relatively strong boom
14 cycles followed by some, shall we say, some capacity
15 absorption. Certainly that's the direction that we
16 see happening in 2009. But again, with stimulus
17 financing, primarily in transmission, some of the
18 other things that is going to go in the direction of
19 the whole utility space, it's dampening the downward
20 trajectory there. Then of course, you can see some
21 stabilizing in 2010 and a substantial amount of
22 financing going into 2010 coming out of the

1 stimulus.

2 Public buildings, a small category, but
3 again a big benefactor on the stimulus package.
4 Health care facilities, perhaps a bigger segment.
5 It's primarily the impact of the VA that you're
6 seeing here, as well as some funding directly to the
7 DOD for some of the barracks health facilities.

8 Again, I always make the comment, this is
9 the one segment, if you're a betting person, you
10 would bet on this for the long term, because based
11 upon the demographics in this country the long-term
12 outlook of the aging of our population would suggest
13 certainly that we're going to need to continue to
14 improve and expand our medical facilities both
15 public and private-based.

16 Education is interesting. No stimulus
17 dollars coming this way. I just thought you'd find
18 this interesting to see this. It is projecting a
19 downward, but still a pretty substantial amount of
20 starts in 2009. But again, we see improvement in
21 2010 without stimulus, and it's just because this
22 country has a record for investing in education,

1 both in the college and university level as well as
2 in the K through 12.

3 Multifamily housing, again -- wow, what
4 can I say about residential that you probably
5 already don't already know. But another tough year
6 for multifamily housing. We certainly can't put any
7 kind of smily faces on this one. It is what it is.
8 There is a little bit of stimulus impact here,
9 primarily again due to some of the barracks work at
10 the DOD level.

11 We do believe that there is the
12 possibility of a rebound in 2010, certainly a modest
13 rebound in terms of real dollars, especially when
14 you look back to 2006, where it was kind of the high
15 water mark in terms of multifamily construction
16 activity.

17 Office construction is in retreat even
18 with some stimulus financing there, a relative
19 softening there. It actually could have been a lot
20 more dramatic had it not been that I think this
21 particular go-around commercial real estate
22 developers were a little bit more sane in terms of

1 the volume of capacity that they were creating. So
2 it's not as dramatic of a pullback as we've seen in
3 other recessions. But certainly you see the impact
4 of the recession. As goes office jobs, so goes
5 office construction.

6 Retail, another tough space; certainly
7 nothing associated with stimulus. Just painting the
8 picture here. It's going to be a tough space for
9 some time to come.

10 A similar story with hotel construction.
11 Hotel has been again on a strong trajectory over the
12 last several years. Capacity is now more than
13 enough to cover demand, and so again we see sharp
14 corrections there for some time.

15 So we put it all together and this gives
16 you a sense of where we're forecasting construction
17 for 2009. There's still a fair amount of
18 construction that we're forecasting that is in start
19 phase for 2009. So certainly \$463 billion worth of
20 construction is substantial. Certainly it is off
21 substantially from the high water mark of 2006, but
22 certainly it suggests that there is work going on

1 out there.

2 You can see essentially, when you break it
3 down into each of the segments of construction
4 activity, with the exception of public works, it's
5 all pretty much of a negative correctional picture
6 for 2009. But as we look into 2010 -- and the
7 reason I have that kind of blurred out is because
8 it's still a little bit of a challenging thing to
9 project. But we do see a turn in most all of the
10 segments, again as long as banks and the banking
11 industry begins to reengage construction financing
12 similar to what they were doing in prior years.

13 Real quickly, just to wrap this up, just
14 to let this room know, there are additional
15 resources available to you. I realize what I've
16 given you is a very high level view of what's going
17 on out there. McGraw-Hill Construction has a number
18 of web sites that are free of charge that you can
19 access. We encourage you to earmark these sites, in
20 that we're doing everything we possibly can to keep
21 the public and the industry informed about what's
22 going on with stimulus construction.

1 We also have our own stimulus special
2 section, where we're actually trying to now take it
3 beyond just kind of high-level news stories to some
4 of the things that are actually going on at the
5 state and local level. The intent there is to try
6 to provide insight that is not only national in
7 nature, but if I am a contractor in California I
8 certainly want to know all that's going on, anything
9 that's newsworthy within the state of California,
10 and this special section is intended to track that.

11 I've given you kind of our projected
12 outlook and where we see construction going. This
13 is also free of charge. If you're interested in
14 getting monthly updates from our chief economist,
15 Bob Murray, this is something that is available to
16 you. Those of you that are in the design aspect of
17 the industry, Architectural Record is tracking all
18 project design aspects, newsworthy aspects of what's
19 going on in stimulus type of projects.

20 We as a corporation or as a business unit
21 of the McGraw-Hill Corporation are also tracking in
22 detail all the project activity that's going on with

1 stimulus-related funding behind it and-or identified
2 as potential stimulus projects. Our database right
3 now is essentially tracking two things: shovel-
4 ready, which are essentially projects in
5 consideration for ARRA financial support; and ARRA
6 stimulus projects which are actually verified with
7 ARRA funding. So we are now distinguishing between
8 those two categories in our database.

9 I went in and took a look at what we
10 currently have within our database. Presently --
11 and I know this is a bit of an odd chart; probably
12 difficult for those of you in the back to see this.
13 But it's a chart of all the various construction
14 segments and the projects that we're tracking by
15 segment between shovel-ready, AARA-funded stimulus
16 track, and the total dollars. Again, the sum total
17 there so far is just under 3100 ARRA stimulus-funded
18 projects we now have in our database with details as
19 to where things lie with those projects. About
20 13,000 shovel-ready; and again, the combination
21 between the two. We've captured about \$129 billion
22 of the \$130 billion some odd worth of activity.

1 So the information is there and certainly
2 if we can help you gain access to that information
3 please let us know. As my Uncle Louis always said,
4 luck favors the prepared mind. Hopefully this was
5 helpful and at least gave you a sense of where we
6 see the markets going specific to stimulus in
7 construction.

8 Thank you.

9 ACTING CHAIRMAN MIGLIACCIO: Thank you,
10 Rusty.

11 Are there any questions of the panel?

12 MR. BIERSNER: Mr. Sherwood, do you have
13 any documents you'd like to submit to the docket?

14 MR. SHERWOOD: Yes, sir.

15 MR. BIERSNER: Could you give them to me
16 or give them to the recorder? Do you have it?

17 MR. SHERWOOD: Mike I believe has it.

18 MR. BIERSNER: I'd like to admit -- it's a
19 copy of your slides?

20 MR. SHERWOOD: Yes, sir.

21 MR. BIERSNER: Okay. I'd like to admit a
22 copy of Mr. Sherwood's slides to the record as

1 Exhibit No. 0028.

2 Thank you.

3 ACTING CHAIRMAN MIGLIACCIO: Any other
4 questions? Mike?

5 MR. BUCHET: By any chance, have you got a
6 slide that you haven't got with you, that showed the
7 funding in construction, the drop, and then the last
8 couple was we see an impact in 2009 by percent, we
9 see an impact in 2010 by percent, and it was in
10 relationship to the year before. What might be
11 really interesting for ACCOSH is to see the high
12 water mark of construction funding and the percent
13 change in 2009 and 2010 against those years, and
14 then we can picture what kind of hazards and the
15 frequency and the exposure and the employment at the
16 high water mark and look at what we might expect.

17 It gives one percent between '9 and '10.
18 I think it's a little cumbersome for us to try and
19 figure out how many more people are going to be
20 working at height or underground.

21 MR. SHERWOOD: One of the challenges we
22 have, Mike, is when you do an aggregate rollup like

1 this, is there's such variability market by market,
2 segment by segment. There's always some danger in
3 terms of driving some of those conclusions. So more
4 times than not what we'd like to suggest is if there
5 are particular segments of activity, construction
6 activity, that you want to drill down more
7 specifically to create these kind of correlations,
8 we can do those things.

9 We have the capacity of doing that up in
10 Bedford. It's just, again it's a difficult thing to
11 prepare for a briefing.

12 ACTING CHAIRMAN MIGLIACCIO: Emmett.

13 MR. RUSSELL: In your presentation,
14 between 2009 and 2010 the graph has a tendency to go
15 up --

16 MR. SHERWOOD: Yes.

17 MR. RUSSELL: -- as relates to
18 construction. Can you just give us your feeling
19 about beyond 2010, 2011, 2012?

20 MR. SHERWOOD: It's a great question. We
21 do track five-year, we do actually provide five-year
22 forecasts. As we look into the out years, again, we

1 see an upward trajectory. Now, this is based upon
2 certain fundamentals. One of the big fundamentals
3 within the U.S. construction marketplace is the need
4 to replace existing building stock. We've
5 determined that between the year 2000 and the year
6 2030 that 70 percent of the U.S. building stock will
7 need to be replaced.

8 So if you just take that into
9 consideration alone, at some point the spring-loaded
10 market that we're experiencing right now, where
11 there's pent-up demand but there's no money to
12 finance the construction activity, at some point
13 that spring's going to release. Because, again,
14 what you can't argue with is the need for shelter,
15 the need for facilities to do work, the need for
16 highways, the need for appropriate sanitation and
17 water management. Those are things that a world-
18 class nation requires.

19 So you take those things into
20 consideration. You take into consideration the
21 demographics of this country, and that also points
22 to certain segments of construction with a favorable

1 outlook.

2 What makes the out years so difficult,
3 however, is the, shall we say, the dampening
4 factors, such as access to credit. It's really,
5 really interesting to point out that when you've
6 looked at prior recessions you'll see that most all
7 of the segments of construction that are suffering
8 the most right now suffered the worst then as well.
9 So there is definitely some correlations to previous
10 recessions.

11 But what's interesting is that it wasn't
12 so much about access to capital as much as it was
13 just simply a cooled economy that was holding back
14 on the need for certain structure types to be built.

15 This particular recession is a little bit
16 more unique in that there continues to be this
17 demand for certain structure types and yet the
18 access to credit -- excuse me -- financing,
19 construction financing, is at an unprecedented high
20 level. So that's a unique element associated with
21 what's going on.

22 But again, having said all of that, if in

1 fact again the financial side of our industry can
2 get back on track there's no reason to believe that
3 the trajectory for the next two to five years is
4 positive.

5 One last comment on this, and then I will
6 conclude my comments. I've been in this industry
7 for 27 years, which in construction lives it's
8 approximately four recessions and three boom-bust
9 cycles. I think we are at the end of my third boom
10 cycle. This has actually been one of the single
11 longest construction cycles in recorded history.
12 Previous cycles of construction, upward and downward
13 cycles, have been between six and nine years. This
14 one we've charted at about T plus 17 years.

15 So this has been an extensively long cycle
16 of activity. But we all know this industry -- those
17 of us who have been in this industry a long time can
18 speak from experience, that it does cycle. So I
19 think we are coming to what appears to be the end of
20 one cycle. The question is how long do we balance
21 on the bottom before we begin to swing upward.

22 But that's the other reason why I believe

1 that the trajectory looks positive over the long
2 term.

3 ACTING CHAIRMAN MIGLIACCIO: If the
4 committee members will also state their name for the
5 recorder before they ask the person a question, we'd
6 appreciate that.

7 MR. BUCHET: Michael Buchet, Directorate
8 of Construction.

9 On the slide that showed the tight and
10 tightening credit market, that's aggregated.

11 MR. SHERWOOD: Yes.

12 MR. BUCHET: We hear about the Donald
13 Trump's and the City Centers and some of the other,
14 and now I guess the World Trade Center, some of the
15 towers are being crunched. If you break that apart,
16 is there anything that might be instructive for OSHA
17 in looking at where jobs are going to show up, where
18 credit may be a little looser faster from some
19 sectors, and where it may not be so loose for a
20 while?

21 MR. SHERWOOD: That's an outstanding
22 question. Certainly I think there's a tremendous

1 amount of scrutiny that's going on by conventional
2 financing, conventional construction financing in
3 office space, certainly multifamily. Those are
4 places that are under extreme scrutiny right now.
5 But there are certainly other spaces, in the
6 institutional side in particular, certainly that --
7 they're all under pretty tightened scrutiny, but
8 again, they look upon the variables that suggest a
9 more positive outlook for some of those segments.
10 So it appears to be less risky.

11 Now, I can't speak other than anecdotally
12 about that. I would certainly recommend perhaps
13 requesting the financial industry, those that
14 finance construction, to perhaps participate in a
15 future meeting to provide further insight on that.

16 I think the other thing, though, that
17 could very well play out over the next two to five
18 years, and something that we are tracking as a trend
19 that could very well be impacting construction
20 activity is the whole concept of public-private
21 partnerships and its impact primarily on public
22 works, the fact, the concept of the public sector

1 and the private sector coming together to
2 essentially co-finance key projects.

3 There was an attempt at this. I think a
4 few years ago there were some municipalities that
5 were attempting to use the PPP financing method.
6 Mixed results. Certainly there has been a track
7 record of success outside of this country for a
8 number of years. Is it perhaps time for
9 reconsideration of PPP? I think so. I think there
10 is within the private equity markets and the
11 investment banking industry, most of the significant
12 investment banks, many of the private equity funds
13 that are out there, have dollars set aside for PPP
14 financing.

15 MR. BUCHET: Any particular sector of
16 construction, as we think of construction? Do you
17 see that blossoming?

18 MR. SHERWOOD: I think PPP would be very
19 much a non-building construction in terms of a broad
20 category, including everything from again toll roads
21 to transit. One of the areas that they talked
22 about, but I'm not sure is going to have a lot of

1 near-term traction, would be in the whole
2 environmental infrastructure side. It's one thing
3 to have private equity firms sharing in the toll
4 receipts. It's another thing to perhaps have a
5 private owner offshore owning water rights. So some
6 of those kind of things might make environmental
7 public works a little bit more challenging for PPP.

8 But certainly, I think non-building is
9 going to be the category of all the major
10 construction categories that would probably
11 participate.

12 MR. BUCHET: Any thoughts about things
13 like water pipelines and in-water power generation?

14 MR. SHERWOOD: In terms of?

15 MR. BUCHET: PPP possibilities.

16 MR. SHERWOOD: PPP? I think so. Again,
17 I would strongly encourage -- this is something that
18 we are just now looking into. Mike, I would
19 strongly recommend -- these alternative forms of
20 construction financing I think are going to become
21 very real very quickly, if they're not already real
22 in some parts of the country. I would strongly

1 encourage you to have people more knowledgeable on
2 the topic join you.

3 MR. BUCHET: Thank you very much.

4 ACTING CHAIRMAN MIGLIACCIO: Any other
5 questions?

6 (No response.)

7 MR. SHANAHAN: This is Tom Shanahan for
8 the National Roofing Contractors Association. I'm
9 just asking a kind of out of the box type question.
10 I was thinking about it since Michael asked the
11 question. That is, as you might be aware, the
12 National Safety Council does every year after the
13 fact where they're looking at accidents in the home
14 and in construction and everything. I'm wondering
15 if there's any -- if you know of any service that
16 would kind of combine what McGraw-Hill is doing from
17 a looking at the business cycle kind of, where
18 construction is, and where the accidents are
19 happening or will happen, because that would give us
20 a chance to kind of be a little bit more predictive
21 in terms of where accidents might be occurring and
22 where to kind of focus efforts on a more going-

1 forward basis versus always having to look over our
2 shoulder. Does that make sense?

3 MR. SHERWOOD: It makes a ton of sense.
4 In terms of identifying that correlation between
5 construction activity and the direction of safety
6 and accidents, it's not something that we have
7 tracked per se. Is it something that we could track
8 as a business? The answer is yes, we could if in
9 fact the demand was there for this kind of
10 information.

11 I think anecdotally, as stimulus money
12 rolls out, I think one of the things -- a
13 hypothesis, perhaps the hope, is the fact that
14 because of the heightened transparency requirements
15 associated with stimulus-funded projects, the
16 scrutiny on safety will probably be higher than
17 perhaps it has been in the past. I'm not sure that
18 I would want to have a project that I'm the general
19 contractor on that is being funded by stimulus
20 dollars reported by Tom Brokaw on the Evening News
21 that there was a serious accident. I'm not sure
22 that that would be in my best interest.

1 So I think you can logically assume that
2 there is going to be, I think, a heightened degree
3 of conscientiousness and concern over safety to
4 ensure that they meet all the obligations of the
5 stimulus requirements, but also don't end up on the
6 Evening News in a, shall we say, a distasteful way.

7 But we don't have anything to date to
8 offer up there. I guess the long and short of it is
9 we don't have it today. Could we help you in the
10 future? The answer is I think we could.

11 ACTING CHAIRMAN MIGLIACCIO: Any other
12 questions?

13 (No response.)

14 ACTING CHAIRMAN MIGLIACCIO: Thank you,
15 Rusty.

16 MR. SHERWOOD: Thank you so much. I
17 appreciate it.

18 ACTING CHAIRMAN MIGLIACCIO: Before we go
19 on, I want to remind everybody in the audience that
20 the public sign-in sheet is in the back of the room
21 for public comments this afternoon. Anybody wishing
22 to speak this afternoon to the committee, please

1 sign up.

2 Next up we have the Road Building Stimulus
3 Overview, and that's the American Road and
4 Transportation Builders Association. Brad.

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6 MR. SANT: The next four people that are
7 listed, and organizations, are going to do this as a
8 panel, rather than individual presentations.

9 (Pause.)

10 ACTING CHAIRMAN MIGLIACCIO: If each of
11 you will state your name and what subject you'll be
12 speaking on for the record.

13 STIMULUS IMPACT PANEL

14 MR. SANT: My name is Brad Sant, Vice
15 President of Safety and Education for the American
16 Road and Transportation Builders Association. I'm
17 joined here on the panel by a number of other
18 colleagues in the industry and I'll let them each
19 introduce themselves since we're doing this as a
20 panel. safety and health standard sr

21 MR. SCHNEIDER: Scott Schneider. I'm the
22 Director of Occupational Health and Safety for the

1 Laborers Health and Safety Fund of North America.

2 MR. MARKS: Howard Marks, Director of
3 Environment, Health and Safety at NAPA, National
4 Asphalt Pavement Association. We represent the
5 producers of the hot mix asphalt that goes down on
6 our nation's highways and the contractors that apply
7 it.

8 MR. ELISBURG: I'm Don Elisburg. I'm a
9 consultant with NAPA and I'm trying to -- I
10 volunteered as a coordinator of some of the
11 activities you're going to hear about this morning.

12 MR. RUSSELL: Emmett Russell. I'll be
13 speaking as Director of Safety and Health for the
14 International Union of Operating Engineers.

15 MR. ELISBURG: Mr. Chairman, Don Elisburg.
16 What we wanted to do this morning, since everybody
17 was listed and a number of these organizations had
18 been working in tandem on particularly items of work
19 zone and workplace safety and health involving the
20 highway construction industry, is to appear as a
21 panel and break this into kind of two parts. The
22 first part would be for each of the organizations to

1 give you their spin or view on the stimulus issues
2 that you've asked about; and then perhaps we then
3 wanted to shift, maybe after you break, to then talk
4 about how we see the impact of all of this on the
5 various safety and health activities that we have
6 been engaged in as a group for a number of years,
7 because the stimulus will have a significant impact
8 on the work force, as each of these organizations
9 will comment on.

10 Brad.

11 MR. SANT: Again, Brad Sant, and I'll
12 begin our panel discussion by sharing a few
13 comments. To start, I want to quote Charles Dickens
14 as he began the Tale of Two Cities: "It was the
15 best of times, it was the worst of times. It was
16 the age of wisdom, it was the age of foolishness.
17 It was the epoch of belief, it was the epoch of
18 incredulity. It was the season of light, it was the
19 season of darkness. It was the spring of hope, it
20 was the winter of despair. We had everything before
21 us, we had nothing before us."

22 I think that applies pretty well to how

1 our economy and the construction industry in general
2 kind of sits right now. I would like to add that
3 emphasis now as we begin talking a little bit about
4 the stimulus package, or the American Rehabilitation
5 and Construction legislation.

6 To start out with the best of times, as
7 Rusty provided some information earlier, President
8 Obama signed this legislation on February 17th and
9 with that for heavy and highway construction came
10 \$27.5 billion for bridge, highway and bridge
11 improvements. This also came with a time line to
12 move this funding along very quickly. Half of it
13 had to be obligated within 120 days of the signing
14 of the legislation. The remainder had to be
15 obligated within one year. Any money that was not
16 obligated by the states -- the money goes to the
17 state departments of transportation. Any money not
18 obligated within that year goes back to the
19 Treasury, back to the Federal Highway
20 Administration, and they can reallocate it to states
21 that are spending the money. So there's a big push
22 on getting this money out there very quickly.

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It also included some money for OSHA enforcement, as you folks are well aware, we understand about 27 million. Some people might call that the worst of times. We'll have to see how that plays out.

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Then what is also -- it's very difficult for us to talk about the stimulus in a vacuum all by itself, because it sits as a piggyback, as we saw on some of the charts earlier, on other funding, and particularly for fiscal year '09 the federal appropriation was \$40.7 billion. So if you look at how much federal money is being spent on roads, the stimulus is really just not even half of what we typically spend in a year.

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So while it's good, it is not this major infusion that a lot of people might anticipate it to be. Anyway, this means that there are about \$68 billion right now on the table for road and related infrastructure construction. Typically the federal share of roadway construction is about 42 percent. Because of the stimulus spending, we anticipate the

1 federal share will be larger over the next year or
2 so.

3 Also, it's important to note that because
4 road and bridge and highway transportation
5 construction is highly, 99 percent is federal,
6 state, and local government spending, it tends to be
7 the most stable of the construction industries. You
8 don't see the fluctuations in this industry like you
9 do in others.

10 Anyway, that's kind of the good news. The
11 industry is moving ahead. There's more money coming
12 into the industry. So for the next year and a half
13 everything looks good.

14 But now we can start on the worst of
15 times, some very serious concerns. As many of you
16 understand, the surface transportation program,
17 roads and bridges, must be authorized by Congress
18 every six years. That authorization sets
19 anticipated limits for each annual appropriation.
20 On September 31 of this year, the current
21 authorization expires and must be reauthorized.

22 Where does this money come from to spend

1 on roads and bridges? Well, at least at the federal
2 level it comes from revenues that are deposited in
3 the highway trust fund. Since 1998, the highway
4 trust fund has been locked off. That money that
5 goes in there can only be used on road and bridge
6 and transportation and transit construction. It
7 can't be flowed out to balance budgets in other
8 areas.

9 That money comes from the federal gas tax.
10 Right now that's 18.4 cents for gasoline, 24.4 cents
11 for diesel, and then there's a little bit of
12 additional funding that comes in from taxes on heavy
13 trucks because they do more damage to the roads.

14 But it's interesting to note that this
15 level of gas tax has not changed in nearly 20 years.
16 It's not indexed to inflation, so it's shrinking as
17 a percentage of the money that will be available.

18 For many years there was a surplus in the
19 highway trust fund and that enabled the roadway
20 construction industry to continue to maintain some
21 level of effort even against inflation. The most
22 dire aspect right now facing this new bill and the

1 new authorization due this year is that the
2 projected revenues are no longer able to support the
3 current levels of highway and transit spending. In
4 fact, a 50 percent cut in highway investment is
5 projected in 2010, if not earlier, and a similar
6 reduction in transit in 2011.

7 To put that all in context, an additional
8 \$67 billion -- that's 53.5 for highways and 13.5 for
9 transit -- must be generated over the next six years
10 to simply maintain the status quo. If this gap
11 remains unaddressed, the cumulative effect would be
12 a loss of about 400,000 jobs.

13 What's going on on the Hill right now?
14 The House T and I Committee, Chairman Oberstar and
15 his panel, is looking at publicly calling for about
16 400, 500, 450 to 500 billion in surface
17 transportation. Will that come about? We'll see.
18 We anticipate some legislation will be introduced in
19 the next few months. But while they are still
20 developing this legislation, one way or another,
21 Chairman Oberstar claims that his bill will be
22 transformational.

1 So that's kind of the outlook. I mean, we
2 look up there and we think the road and bridge and
3 highway construction is doing well because of
4 stimulus and it is, but the long-term forecast is
5 anyone's guess, depending on what's going on in the
6 Congress. It's going to take a lot of money just to
7 keep the industry on status quo, which is going to
8 be difficult to appropriate given the current status
9 of the economy. But we'll be working hard towards
10 that.

11 All right. Also, we don't want to pass
12 the opportunity to mention that we were also, this
13 group here, this panel, was very interested to note
14 that the stimulus included \$27 million to OSHA for
15 enforcement, limited to enforcement. This group
16 would be very interested in working with OSHA,
17 particularly this group, to talk about how many --
18 how that money could be most effectively spent to
19 ensure that safety is improved in our industry.

20 So how does this all affect safety? We
21 know that heavy and highway construction is one of
22 the most dangerous segments of the construction

1 industry. Our average fatality rate is about 30 to
2 100,000 workers, as compared to about 12 for
3 construction in general.

4 Why does our industry face these kind of
5 dangers? Well, first of all, most of our work, and
6 particularly the way the stimulus funding is coming
7 out, it has to be spent very quickly, which means if
8 they don't already have right-of-way, if they
9 haven't already passed all their environmental
10 reviews, the money cannot really be used unless
11 those projects are ready to go. So we're likely to
12 see a lot of rehabilitation of existing
13 infrastructure, which means work zones, which means
14 you cannot put up a fence, say "Hard hat area, no
15 public access on our work site." You have workers
16 on the side of the road exposed to traffic.

17 When we look at what kills people in our
18 industry, it's workers being struck by vehicles.
19 Half of those are motorists, but the other half are
20 construction vehicles and equipment. We're running
21 over our own people.

22 So we have this whole element of a work

1 area that has public access and we have to deal with
2 these motorists that most other construction
3 segments don't have to deal with. And the
4 requirements of the stimulus money that it be spent
5 very quickly means that we're likely to do this more
6 in roadway work zones, high exposure.

7 The other part of doing rehabilitation
8 work is as you see road construction goes on, there
9 are big trucks. It's big pieces of equipment. But
10 it also requires manual work, workers on foot
11 working adjacent to those pieces of equipment. Now,
12 when you're doing a roadway there's a strong
13 pressure from the state DOTs, the owners, the people
14 for whom we work, to minimize that impact on
15 traffic, keep the traffic flowing as smoothly as
16 possible past this construction. So what this
17 means, you have a very small space with big pieces
18 of equipment, workers on foot trying to do a job,
19 and it becomes a very dangerous environment.

20 Finally, on April 7th, earlier this month,
21 Joe Toole, who's the Federal Highway Administrator
22 for Safety, was speaking at the launch of Work Zone

1 Awareness Week and he stated that he anticipated
2 that this will be one of the busiest construction
3 seasons on record, meaning that, at least for the
4 next couple of years, we're anticipated to see high
5 exposures. We're anxiously looking at that data
6 because we do not want this increase in construction
7 to equal an increase in worker fatalities and
8 injuries.

9 We are heartened to know that if you look
10 at work zone fatalities as tracked by the Department
11 of Transportation, they don't really distinguish
12 workers versus other pedestrians, but typically for
13 the last, I don't know, eight years we've had
14 fatalities in the range of a thousand and over a
15 thousand. In 2007, which is the latest year for
16 which we have data, that number dropped to 835
17 fatalities. Now, these include motorists. As a
18 matter of fact, two-thirds to three-quarters of
19 those fatalities are motorists and pedestrians not
20 working.

21 But we saw a significant drop in the last
22 few years. We want to see that drop continue, and

1 that's going to be our effort as a group here today,
2 to push for that. We think we've made some impacts
3 by jointly working together in a labor-management-
4 government cooperative fashion, and we'll continue
5 to do that in the future.

6 So that concludes my remarks.

7 MR. ELISBURG: Thank you.

8 MR. SCHNEIDER: Scott Schneider with the
9 Laborers Health and Safety Fund of North America.
10 Thank you for having us come here to speak today.

11 The funds for the stimulus plan -- I did
12 give out copies of my remarks, so you have them and
13 I guess will enter them into the record when we're
14 done. Stimulus funds will boost construction
15 spending over the coming months. As a result, there
16 will be an increase in employment in the
17 construction industry. As I know Matt's going to
18 talk about later, when you do have an increase in
19 construction you get new and younger workers coming
20 into the trade and injury rates often increase
21 because of their inexperience or inadequate
22 training.

1 Now, we don't know yet what's going to
2 happen because it could be there are a lot of
3 workers that have been laid off that will be coming
4 back to work. But in any case, that's often what
5 happens.

6 We can prevent an increase in injuries
7 through a series of steps that I will outline. I'm
8 going to outline about a dozen steps that could be
9 taken. As federally funded work, the government can
10 place restrictions and requirements on the use of
11 these funds, just as it does on GM or AIG. There
12 are a couple regarding training that I think should
13 be done. I know this committee has talked quite a
14 bit about the OSHA ten-hour class course, and all
15 construction workers on projects funded by the
16 stimulus money should be required to complete the
17 OSHA ten-hour training program.

18 We have worked diligently with many states
19 to get this requirement on state-funded projects and
20 there's a number of states that now require that.
21 There are studies that have shown it helps reduce
22 injury rates. No worker should be allowed to work

1 in this dangerous industry without minimum training.

2 In terms of safety orientation training,
3 we will talk later after the break about the
4 orientation program that we have developed as a
5 consortium, which would help make all these sites
6 safer. We have given out or it's been downloaded
7 over 10,000 copies of this program in the last five
8 years or so.

9 I do want to mention supervisory training,
10 though. Safety training should be required for all
11 supervisors and forepersons. These people control
12 the job sites and make a huge -- can make a huge
13 difference on how safe the job is. A recent study
14 by the Construction Safety Association of Ontario
15 shows the efficacy of such training in producing a
16 safer work site. We have worked closely with
17 Laborers AGC Training Fund, our sister fund, on a
18 course specifically to teach supervisors about job
19 safety and health and how to create a safe job site.

20 There are a couple steps that could be
21 taken pre-project. One of them is regarding wage
22 rates. Dr. Peter Phillips at University of Utah did

1 a study showing that jobs are safer if contractors
2 are required to pay workers the prevailing wage
3 rate. Phillips estimated that a repeal of federal
4 prevailing wage rates would result in a 15 percent
5 increase in injuries and at least \$300 million more
6 in workers comp costs directly and at least as much
7 in indirect costs.

8 Awarding contracts to the lowest bidder
9 produces a race to the bottom and inevitably results
10 in cutting corners, one of which is usually safety.
11 By making safety a minimum requirement for bidding
12 on contracts, projects are done better and safer.
13 Many states, municipalities, and some Federal
14 Government agencies already require this on
15 projects. Stimulus projects should be no exception.

16 Subpart K, which just went into effect in
17 December, of the Federal Highway Code, already
18 requires that separate pay items to be included in
19 contracts for highway work, and we think that's an
20 important first step.

21 A recent study in Australia and over a
22 decade of experience in England have shown that many

1 injuries and fatalities in construction could have
2 been prevented through incorporating safety
3 principles into the design of the project. I know
4 there are several people on this committee that are
5 very excited about doing work like this. The
6 Federal Government should insist that all projects
7 funded by the stimulus money are required to include
8 design for safe construction.

9 Too often, project safety suffers from the
10 subcontracting of work without sufficient oversight
11 or care. The safety record of all subcontractors
12 should be considered in awarding those subcontracts.
13 The general contractor should also supervise all
14 work performed by subcontractors to assure that all
15 proper safety procedures are followed. This is in
16 line with the recent Eighth Circuit court decision
17 on OSHA's multi-employer work site policy.

18 During the project there are a number of
19 things that could be done as well to improve safety
20 on these job sites. First of all is joint safety
21 and health committees. Worker involvement in safety
22 is the key to a successful program. Requiring joint

1 safety and health committees, as is done in
2 Washington State and Ontario on many job sites, can
3 make a huge difference in improving safety
4 conditions.

5 One of the essential functions of this
6 committee is to make regular inspections or audits
7 of the site to ensure that hazards are quickly
8 corrected before someone gets hurt. On all critical
9 tasks, a competent person should be required to
10 oversee them, and many OSHA standards require that.
11 They should also have a job safety analysis, or JSA,
12 showing potential hazards and how they could be
13 controlled, even for non-routine tasks. These JSAs
14 must be reviewed prior to these tasks.

15 With regard to health hazards, road work
16 presents many potential health hazards to workers,
17 such as noise, lead, and silica. But they are often
18 neglected because of the emphasis on preventing
19 fatalities and injuries. It would not be difficult
20 to require that health hazards be mitigated by the
21 use of control technologies like water sprays for
22 jackhammers and ventilation of asphalt pavers.

1 We've had significant success with our silica
2 partnership in New Jersey, where we reduced silica
3 exposures on jobs, our asphalt partnership to
4 require the use of pavers with ventilation
5 equipment. Similarly, in New York City we've had
6 some success in looking at ways to control noise to
7 comply with the new New York City noise ordinance.

8 Some agencies, like NASA, have instituted
9 buy-quiet programs that require all new equipment
10 purchased to be quieter models. A requirement to
11 use quieter equipment could also be included in the
12 requirements for stimulus funding.

13 Now my personal pet peeve, preventing
14 sprain and strain injuries in construction. Sprain
15 and strain injuries make up about 40 percent of
16 serious injuries in road construction. Any serious
17 effort to prevent injuries in this industry must
18 address this problem. It starts by focusing on
19 manual handling and storage of materials. Any road
20 work funded by stimulus money should be required to
21 address this serious hazard by a comprehensive
22 review of potential hazards, interventions, and

1 changes in procedures to minimize the risk.

2 On reporting, in order to get an accurate
3 look at the injury and illness picture on a site
4 contractors should be required to keep a site log of
5 all injuries and illnesses at the site, including
6 all the injuries and illnesses to all subcontractor
7 employees. They should also be required to do
8 incident and near-miss investigations for all those
9 incidents that could have easily resulted in
10 injuries.

11 All results of these investigations should
12 be communicated to workers and used for prevention
13 activities. Only by looking at the broad spectrum
14 of potential injuries and their causes can a
15 contractor effectively prevent future incidents.

16 Safety culture surveys are also an
17 important part of this. Too often management
18 believes they're doing a great job and workers are
19 happy with the safety on the site when the reality
20 is serious problems exist. I know there are a
21 number of larger construction companies that are
22 doing safety culture surveys now and finding it very

1 valuable. Only anonymous surveys of workers can
2 identify any gaps in the safety culture on the site.
3 Many large contractors have successfully used these
4 surveys to improve their safety program. They
5 should be required on stimulus projects.

6 In the rush to get these jobs done, the
7 emphasis on not impeding the motoring public will
8 mean many of these jobs will be done at night. This
9 presents many hazards to workers from disruptions in
10 their circadian rhythms and family lives to dealing
11 with impaired and speeding drivers. Special
12 precautions are needed to ensure that the night work
13 is safe. Many of those are laid out in our training
14 materials and we do have a new hour-long module on
15 the hazards of night work and what to do about them.

16 A substantial number of highway workers
17 are killed each year being run over or backed over
18 by construction equipment. As part of the stimulus
19 requirements, contractors should be required to
20 address this issue by the use of internal traffic
21 control program plans or backup technology, like
22 video and radar systems. We've developed extensive

1 training materials and publications on this, as well
2 as a web site for this effort.

3 Lastly let me talk about OSHA's role.
4 OSHA has received a substantial boost in its budget
5 to increase enforcement on stimulus projects. Yet
6 most OSHA inspectors have little familiarity with
7 the hazards and requirements for highway
8 construction. Resources need to be devoted to
9 training these inspectors and compliance assistance
10 personnel before they begin their inspections.

11 In our consortium we have committed to
12 helping OSHA train these folks using our roadway
13 safety program, which was developed in part with
14 OSHA funds. We also hope to partner with OSHA to
15 get the information out to the industry on how to
16 prevent injuries and illnesses and ultimately change
17 the safety culture of the industry as a whole.

18 In fact, I'll commit now that we will work
19 with OSHA to provide them with as many copies of our
20 programs and materials that they need to get the
21 word out, and we have federal funds to pay for that,
22 federal highway funds.

1 The stimulus money will lead to a boost in
2 road and highway construction and bridge
3 construction over the coming months. This work is
4 desperately needed. We have a responsibility to
5 make sure that no one is hurt or killed and the work
6 is done safely. We in the unions and the
7 construction industry have been working hard at this
8 for more than 12 years to improve safety.
9 Government and OSHA can do its part through better,
10 smarter enforcement, through requirements on
11 contractors who work on stimulus jobs to institute
12 the safety procedures that we know can make a
13 difference.

14 I hope this presentation has provided some
15 food for thought on what steps could and should be
16 taken immediately to ensure these workers go home
17 safely to their families. Thank you.

18 ACTING CHAIRMAN MIGLIACCIO: Thank you.

19 MR. MARKS: Again, my name is Howard
20 Marks. I'm with the National Asphalt Paving
21 Association. We represent the contractors and
22 producers of asphalt pavement. This industry

1 employs about 300,000 workers. That number is
2 probably a couple years old. Don't know what it is
3 today. I don't have any prepared comments that I've
4 submitted, but I can certainly put prepared comments
5 into the record.

6 Just to follow up on the previous
7 presentation, yes, there are some significant moneys
8 available for immediate highway construction
9 projects through the stimulus package, and because
10 asphalt pavements comprise about 95 percent of the
11 paved roads in the U.S., the asphalt pavement
12 industry is poised to fast track some of these road
13 paving projects. Plus, whether it's new
14 construction or rehabilitation, these asphalt
15 pavements are very quick to construct. And as Brad
16 initially pointed out, this presents some unique
17 problems and potential issues when it comes to
18 worker safety in the construction zone.

19 Because many of these asphalt paving
20 projects can be conducted over the course of just a
21 few hours or overnight and they're often conducted
22 during the night time to minimize traffic

1 disruptions, this poses a multitude of worker safety
2 issues. I believe that a number of my colleagues
3 here will speak a little bit more about these issues
4 later on this morning.

5 NAPA and the asphalt paving industry are
6 committed to ensuring that all workers engaged in
7 construction with these funds or any other highway
8 construction funds are fully protected in terms of
9 safety and health at the workplace, and NAPA is
10 committed to working with its contracting and labor
11 unions to ensure that this happens.

12 Now, getting back to the effect of the
13 stimulus money on asphalt paving projects, a good
14 portion of these funds will go toward what we call
15 green projects, green paving projects. I'd like to
16 spend a moment telling you how our industry has been
17 greening the blacktop, so to speak. First, asphalt
18 pavement is one of, if not the, most recycled
19 material in the United States. The term we use for
20 this is "RAP," R-A-P, or reclaimed asphalt pavement.
21 Over 80 percent of the asphalt pavement removed each
22 year from road widening and resurfacing is reused.

1 This represents about 100 million tons per year.
2 Plus there are a multitude of other materials that
3 can be recycled into asphalt pavements, things like
4 shingles, scrap tires, and other materials.

5 These are really tried and true
6 performance materials. They're well tested by state
7 transportation and federal highway agencies.
8 However, I have been seeing recent news clips of
9 some of these proposed green recyclable materials
10 that are being proposed to be placed or incorporated
11 into asphalt pavement, things like scrap and ground
12 electronic parts -- I just read about this the other
13 day -- and other types of waste materials.

14 From an occupational health perspective,
15 this has a potential to be a little concerning.
16 Although the materials might perform adequately in
17 pavement, there is the end of life issue for the
18 pavement when it is milled, and whether these
19 materials might cause any potential occupational
20 hazards at that time. So I guess I'd say please
21 proceed with caution on adding more novel waste
22 materials into asphalt pavement.

1 Second, our industry is undergoing a
2 paradigm shift and the way we produce asphalt mixes.
3 Specifically, there are newer technologies called
4 warm mix that allows almost a 20 percent reduction
5 in the production temperature of the material that
6 basically is produced at 300 degrees and now we're
7 looking at producing it at about 250 degrees or
8 lower. This also equates to about a 20 percent
9 reduction in the fuel that's required to make the
10 pavement material.

11 This is green in two ways. First, lower
12 temperatures minimize airborne emissions at the
13 plant and at the application site on the road grade,
14 providing a safe and comfortable working
15 environment. Second, the reduction in the fuel
16 similarly reduces greenhouse gas emissions at the
17 plant.

18 We believe this technology will be the
19 industry standard in less than five years and
20 currently we are looking toward Congress to help
21 fast track its implementation.

22 Third, there are a number of other asphalt

1 paving technologies that are basically greening the
2 blacktop. Specifically in the area of environmental
3 protection, I'll just give you one example. This is
4 called porous asphalt pavement. Basically, this can
5 provide -- it's a pavement that has the ability to
6 act as a horizontal water treatment system, in
7 effect, eliminating the need for traditional water
8 treatment systems. Then there's a slew of other
9 green pavement technologies and I can speak about
10 those off-line, but a lot of those have to do with
11 environmental issues.

12 So yes, the asphalt pavement industry is
13 looking toward an immediate increase in paving
14 activity, and with it brings more potential hazards
15 in the work zone, more potential hazards in some of
16 the novel recycled or green materials that are being
17 proposed to be incorporated into asphalt pavements,
18 but also more potential to use more environmental
19 and worker-friendly paving materials, like with warm
20 mix.

21 Again, the asphalt pavement industry is
22 poised to fast track shovel-ready paving jobs and we

1 intend to do it in an environmentally responsible
2 and worker-safe manner.

3 Thank you for your time.

4 ACTING CHAIRMAN MIGLIACCIO: Thank you.

5 MR. RUSSELL: Hi. My name is Emmett
6 Rusell and I'm with the Operating Engineers
7 International Union. I do have a Power Point.
8 Hopefully it's on this computer.

9 Again, I'm talking about the impact to our
10 union on the stimulus package, not only to our
11 union, but to the industry as it relates to
12 equipment operators. Bottom line is we're going to
13 talk about transportation and infrastructure
14 spending, energy, job creation, and protecting
15 operating engineers.

16 McGraw-Hill talked about where the money
17 is actually going to be spent. This slide just
18 reiterates where the money is actually coming and
19 where it's going to be spent. We think that these
20 are the areas that will most impact our members and
21 other equipment operators in the industry.

22 Aviation, wastewater, Corps of Engineers,

1 federal buildings. All of these are actually
2 projects, mostly heavy construction except for the
3 buildings, and on any heavy construction projects
4 it's very operating engineer-dominant.

5 Talking about energy, there's going to be
6 a fair amount just spent on energy efficiency in
7 federal buildings, also on clean energy projects.

8 Again, local government will spend on
9 energy efficiency grants. Our Department of Defense
10 is actually going to invest in energy efficient
11 projects and to repair and modernize their
12 facilities, and this work would again be very heavy
13 for operating engineers.

14 Speaking about the job creation, we feel
15 as though the \$64 billion investment in
16 transportation and infrastructure will create about
17 1.8 million jobs and generate about \$322 billion of
18 economic activity. Now, in saying these numbers
19 we're actually talking about more than the
20 construction industry. We're talking about where
21 construction workers spend their money, where
22 construction workers actually get food. So even

1 though the money is being spent in construction, it
2 will actually have a major impact to our total
3 economy.

4 When we speak about job creation, our
5 estimate is for every \$1 billion of federal funds
6 invested in infrastructure it creates about 35,000
7 jobs and about half of those jobs will be in
8 construction. About one-fifth of these construction
9 jobs will be equipment operators, mechanics, and
10 equipment support personnel. Again, this is just a
11 rough estimate per our organization.

12 Getting into the specifics of how our
13 members are affected, in times when we have a fair
14 amount of unemployment, which is actually happening
15 now, we find that our members actually come to our
16 training facilities and get skill training. Part of
17 that is in apprenticeship training. We have a lot
18 of journeyperson upgrading, where operators know
19 that they need to expand their skills and they
20 actually come to our training centers looking to
21 expand their skills, learn how to operate different
22 pieces of equipment.

1 We also get involved in a lot of specialty
2 training. For instance, there's still a fair amount
3 of money being spent on gas and oil pipelines. So
4 we actually have special training for our members
5 working in the pipeline industry.

6 We are finding that a lot of equipment and
7 a lot of projects are using GPS. We are having to
8 train our members on how to use GPS as it relates to
9 laying out projects and on equipment. Welding, CDL,
10 and also paving are areas among some of the major
11 areas where we're doing a lot of specialty training
12 with a number of our employed and unemployed
13 members.

14 Other areas where we're getting into a lot
15 more safety training. A lot more owners and
16 employers are requiring that our members actually
17 come to the site with OSHA 10 training. A lot of
18 the stimulus money is going to require HAZMAT
19 training. We're also continuing to get more into
20 MSHA training. As most of you know, MSHA mandates
21 training as relates to our employers. We're
22 increasing trench and excavation safety training,

1 and then specifically on roadway safety training.
2 Not only are we doing roadway safety training at our
3 training sites, this is an area where we are
4 expanding what we consider to be our old model. Our
5 old model is that we primarily trained at our
6 training centers within our union. On roadway
7 safety we are finding that we're actually partnering
8 more with the contractors and doing more training or
9 encouraging our contractors to do more safety
10 training on site. So this is an area where we are
11 deviating and actually doing more on-site training
12 with our contractors.

13 An area where we know that we've had a
14 number of problems, which has been on the crane
15 accidents, and we are increasing our crane training
16 and operator certification. We know that an area
17 that will demand some attention -- for instance,
18 we're dealing with OSHA in terms of developing a new
19 OSHA crane regulation. Myself and my union feel as
20 though this OSHA crane regulation is actually good
21 enough in the current status not to deal with it as
22 a proposed regulation, but actually deal with it as

1 an actual training piece, where we can actually
2 start training our operators.

3 The regulation is actually good enough to
4 be used as a best practice and actually start
5 training on that regulation as a best practice
6 document. So we're looking to actually roll out a
7 lot of training or at least start developing
8 training on the new OSHA crane standard right now as
9 the best practice document, and I would encourage
10 anyone to look at that document as a best practice
11 document and actually start training crane operators
12 now based on the proposed standard.

13 Also, we're getting into a lot more
14 training with signal persons and rigger training.

15 Specifically as it relates to operating
16 engineers, I'd like to bring up a number of other
17 areas. Again, right now we're experiencing a fair
18 amount of unemployment, and with the unemployment we
19 feel as though that is now an area where our members
20 actually use that as a time where they can actually
21 come and get additional skills training.

22 We feel as though the stimulus package is

1 going to generate a number of issues, and those
2 issues will be a lot of shift work, a lot of night
3 work. For instance, we feel in terms of manning the
4 projects that having enough workers for the projects
5 is not going to be a problem, but our workers may
6 have to travel to where the work is. And instead of
7 actually staying in what might be considered
8 traditional areas that they've been used to working,
9 they may have to start doing some traveling.

10 Also, as a result of the economy a number
11 of our pension programs have actually had some
12 problems. So a number of workers who would normally
13 be retiring now as a result of being eligible for
14 retirement are actually looking at working longer.
15 So we think that the aging issue is going to affect
16 our workers in the near future.

17 Also, a number of our health and welfare
18 programs have actually had to make some adjustments
19 as a result of the economy. So we think that as it
20 relates to worker health, not necessarily on the
21 job, but we think that that's an area that may
22 receive some effect as a result of the economy and a

1 lot of work actually going on in the area generated
2 by the stimulus package.

3 With that, that gives you a quick overview
4 of what we think will be the future for the
5 operating engineers as it relates to some effect of
6 the economy and the stimulus package.

7 ACTING CHAIRMAN MIGLIACCIO: Thank you.

8 MR. ELISBURG: I wonder whether you all
9 might have some questions on this part, and maybe
10 give us a chance to set up during your break for
11 some of the safety stuff we want to show you.

12 ACTING CHAIRMAN MIGLIACCIO: Are there any
13 questions at this time?

14 MR. BIERSNER: Do any of you have exhibits
15 -- do you have a question?

16 MR. BEAUREGARD: I have a question. This
17 question is for Scott. I was just wondering if you
18 could give us a really brief overview of your
19 roadway safety program? Is that the DVD that you
20 developed?

21 MR. SCHNEIDER: No, it's a CD-ROM. But we
22 were going to do that right after the break. We're

1 going to go over and show people the program and we
2 can discuss it.

3 MR. SHANAHAN: Frank, I've got a question.

4 Scott, I had a question. This is Tom
5 Shanahan with NRCA. When you were talking I was --
6 I wonder if you were implying or saying directly
7 that the moneys that was being spent on the stimulus
8 package, for example, part of that should be
9 allocated towards ensuring that safety occurs? Were
10 you making a tie that way?

11 MR. SCHNEIDER: Well, what I was saying
12 was two things. One of them is I think the money
13 can come with strings attached, where the Federal
14 Government can say, if you want to do a project
15 that's funded by stimulus moneys, you need to do X,
16 Y, Z, and require certain -- make certain and meet
17 certain requirements.

18 The second thing is, as we said on the
19 highway, for highway projects, federal highway now
20 does require that all bids that are -- all contracts
21 that are let have to include a line item for safety,
22 so that when someone's bidding on the contract

1 there's no cutting corners in terms of safety
2 equipment, etcetera, money for concrete barriers,
3 etcetera. So that's already in. That occurred
4 because of the bill that came out, SAFETY-LU. When
5 was that, two years ago? 2006. So that as of
6 December of this year, that requirement went into
7 effect. So that's we think an important step in the
8 right direction.

9 MR. SHANAHAN: So there is some precedent
10 for it, is what you're saying, but in the particular
11 package there is not?

12 MR. SCHNEIDER: I don't think the bill
13 itself had anything, but I think certainly the
14 Federal Government can step in and say certain
15 things need to be done on these projects if you're
16 going to use federal money. It's just like they're
17 saying now to banks, etcetera, that if you're taking
18 this money you have to do X, Y, Z, certain things.

19 MR. SHANAHAN: Right.

20 MR. SCHNEIDER: And I think it could be a
21 good opportunity for the Federal Government to say,
22 okay, these projects, we're going to make sure

1 they're done safely by requiring certain steps be
2 taken.

3 MR. SHANAHAN: I have one more question --

4 MR. MARKS: I'd like to follow up. There
5 are certain steps to take, including for example
6 this thing called Subpart K which FHWA put out,
7 which really starts to address more specifically
8 some of the safety issues associated with
9 construction activities. We're going to talk a
10 little bit about that later.

11 MR. SHANAHAN: Howard, I actually had a
12 question for you as well. You mentioned in your
13 report the desire to put more things in the road. I
14 just wondered two things. One of them is, is there
15 any performance testing that's already been done, so
16 that you know that the road will perform well,
17 because if it's breaking down you may have safety
18 issues as a result of failure of the product itself.

19 And have like CRN or chrome rubber and
20 things that you've been using in the past, have
21 those been performing well, so that you know that
22 recycled materials really do perform well?

1 MR. SCHNEIDER: I think, first of all,
2 there are performance requirements, but they're
3 primarily at the
4 federal and state level. So when you start to get
5 into commercial applications and-or low volume
6 roads, for example county roads and stuff, there are
7 very, very few performance requirements, so to
8 speak. Things like chrome rubber, RAP, and even in
9 some cases glass and stuff like that, they have
10 been evaluated from a performance characteristics,
11 especially chrome rubber, because that is a large
12 waste stream of material. It has been used
13 historically in the past and these agencies have
14 looked at the use of that in the future and have
15 basically come up with recommendations on what needs
16 to be done to the mix design, etcetera.

17 Similarly, they're going through this warm
18 mix technology, but really looking very specifically
19 at the mix design to ensure that the roads will last
20 as long as they normally do.

21 Now, when it comes to these other types of
22 construction waste materials, like for example I saw

1 that news article on electronic circuit boards that
2 are ground up and put in pavement, in the past
3 there's been some hazardous waste issues associated
4 with pavement. For example, EPA has some beneficial
5 reuse requirements. They like to put things in
6 pavement, both concrete and asphalt, because it
7 basically encapsulates the material. It's
8 waterproof, it encapsulates it.

9 The problem is long-term what happens when
10 you start to grind the material up or mill the
11 material up to reuse. That creates some issues. So
12 I don't think that either the highway agencies or
13 the occupational agencies have really taken a hard
14 look at that particular issue.

15 MR. SHANAHAN: Right, I understood that.
16 But I was just wondering if aggregate, the chopped-
17 up computer parts survive. I'm just thinking in
18 terms before you can get to recycling, just potholes
19 and different things that would create other safety
20 hazards.

21 MR. SCHNEIDER: Yes, the performance
22 issue. It depends on the kind of road traffic

1 you're going to have. On low volume roads, because
2 there are very few performance requirements, they'll
3 probably be fine if you really wanted to incorporate
4 that kind of waste material in a product.

5 ACTING CHAIRMAN MIGLIACCIO: Walter.

6 MR. JONES: During your presentation, you
7 talked about the fact that roadway work has some
8 inherent problems associated with it due to the fact
9 that it's done on the road and the space is small.
10 Our prior presenter said that the majority of work
11 is going to be done on the road, so this committee
12 is probably looking at that's where the majority of
13 our hazards are going to be coming from, or
14 exposures to workers. This committee spends a lot
15 of time on worker training issues.

16 Can you or Scott talk about the need for
17 supervisory training and preplanning, so that we
18 could address some of these issues ahead of time,
19 instead of workers finding themselves in situations
20 that are hazardous and then trying to adapt?

21 MR. SANT: Sure. I think what we have
22 done as a group for a number of years, as you're

1 aware, is preparing materials that are easily used
2 and easily incorporated. I think as far as content-
3 wise, we have developed a lot of good stuff and
4 probably a lot of what needs to be done. It's now,
5 the challenge is in the delivery.

6 I think one of the major efforts that we
7 will be doing right now is working with the state
8 DOTs to try -- it gets back. Let me take a step
9 back. It gets back to how do you ensure that those
10 contractors who really are taking a good effort to
11 improve safety on a project are not undercut by
12 those who could care less. It's the same problem we
13 see in all aspects of the industry.

14 As was mentioned before, we made a step
15 forward with that with the new federal highway
16 regulation that at least requires the states to look
17 at the safety aspect and consider it separate and
18 apart from the other bid issues. So again, while
19 that doesn't go to training at this point, it really
20 goes with traffic control and with positive
21 separation and those types of things, I think you
22 begin to see a precedent for looking at asphalt and

1 have the DOTs at least become more engaged as an
2 owner in what goes on on their projects.

3 So one of the steps we're now taking is
4 now we're working with the DOTs who are now a
5 partner with us, at least through their national
6 association, ASHTO, in developing the roadway safety
7 program, to work with them and actually have the
8 owners encourage more of this training to go on
9 through their contractors through contract
10 requirements. So that's kind of a step that we're
11 getting into and hope to do to have more effort.

12 So it's getting owners to have a more,
13 higher involvement in the safety and ensuring that
14 if one contractor is doing it all of them are doing
15 it, and to level that playing field. I think that
16 will get to some of the supervisory level training
17 because it's getting to the attention of the owners
18 of the country.

19 MR. ELISBURG: Could I further comment on
20 that, Walter?

21 MR. RUSSELL: Please.

22 MR. ELISBURG: One of the advantages of

1 having this series of consortiums or partnerships is
2 that over the years you get to spend a lot of time
3 thinking about where are you going with all of it.
4 As this program, which you'll see in a little bit,
5 has evolved, we've gone from kind of a simple
6 awareness situation for the workers on the jobs to a
7 whole series of how do you reach out to supervisors,
8 foremen, how do you reach out to compliance
9 assistance people, how do you reach out to state and
10 local and federal DOT people, how do you deal with
11 both state and federal OSHA.

12 Conceptually what we've tried to look at
13 is to have materials that get everybody on the same
14 page. How a worker is trained, as it were, what you
15 present for things like night work, all right, or
16 backups and rollovers, may be different in how you
17 present it to the supervisor or to the compliance
18 person, but it's focusing on the same issues. So
19 that everybody who's looking at this stuff knows,
20 here are the problems on the job site. And we've
21 spent enough time in developing all of these modules
22 and vetting it with everybody in the world to make

1 sure that everybody was in agreement that we have
2 put our arms, with everybody's assistance, OSHA and
3 NIOSH and so forth, around us, so we know what the
4 issues are on these work sites.

5 What we're trying to do now is get across
6 to everybody in the system, from the basic worker
7 all the way up to the people who are doing the
8 inspections, here are the things that kill people,
9 here are the things where the injuries are, here is
10 where we need everybody to be focusing.

11 As a matter of fact, one of the things we
12 did a few years ago, the original materials were
13 very carefully drafted without having reference to
14 regulations and statutes, the MUCTD and the FHWA.
15 When we began to work on using this as a training
16 vehicle, for example, for OSHA compliance officers,
17 with OSHA's help we put a version in to click on and
18 you get the rules and regulations that cover
19 particular issues.

20 It turns out now that almost everybody
21 likes that version. But the idea was as you kept
22 getting perhaps a little more sophisticated in terms

1 of the levels of requirements, we're beginning to
2 say, all right, here's what the managers have to
3 have, here's what the regulators have to have,
4 here's what the workers have to have. But it's kind
5 of a holistic effort at dealing with this.

6 That's probably more than you wanted to
7 know.

8 MR. RUSSELL: No, that's perfect.

9 ACTING CHAIRMAN MIGLIACCIO: Mike?

10 MR. BUCHET: No, thank you, Mr. Chairman.

11 (No response.)

12 MR. BIERSNER: A housekeeping matter.
13 Which of you has a document you want to submit to
14 the docket? I have Mr. Schneider's. Mr. Russell, I
15 understand that you have your Power Point on a disk.
16 We're going to make a copy of that for the record.

17 Mr. Marks?

18 MR. MARKS: Correct.

19 MR. BIERSNER: Have you already submitted
20 your remarks?

21 MR. MARKS: No, I have not.

22 MR. BIERSNER: Would you submit them to me

1 after we recess for the break?

2 MR. MARKS: Yes.

3 MR. BIERSNER: Okay.

4 MR. ELISBURG: I think we're also going to
5 submit to you our CD and some of that stuff.

6 MR. BIERSNER: Okay, we'll do that. I'll
7 do that after the break. I assume we'll have a
8 break next.

9 So for the record, I will admit Mr.
10 Schneider's remarks as Exhibit 0029, Mr. Russell's
11 Power Point as 0030, and Mr. Marks' remarks as
12 Exhibit 0031 in the previously designated docket.

13 ACTING CHAIRMAN MIGLIACCIO: At this time
14 we'll take a 15-minute break. Everybody be back at
15 25 after 10:00 and we will start promptly at 25
16 after.

17 (Recess from 10:11 a.m. to 10:30 a.m.)

18 ACTING CHAIRMAN MIGLIACCIO: We have a
19 little bit of housekeeping to take care of from
20 yesterday. I'll entertain a motion to accept the
21 OTI's work group.

22 MR. KAVICKY: Mr. Chairman --

1 ACTING CHAIRMAN MIGLIACCIO: Will the
2 meeting come to order.

3 MR. KAVICKY: Mr. Chairman, I make the
4 motion that ACCOSH committee accept the minutes of
5 the OTI work group report.

6 ACTING CHAIRMAN MIGLIACCIO: Do I have a
7 second?

8 VOICE: Second.

9 ACTING CHAIRMAN MIGLIACCIO: Any questions
10 or discussion?

11 (No response.)

12 MR. SHANAHAN: Frank, there is one thing.
13 The minutes don't reflect the activity at the
14 meeting yesterday. I'm sure that's on the record
15 already, but just to kind of tie those two things
16 together.

17 ACTING CHAIRMAN MIGLIACCIO: Okay. All in
18 favor say aye.

19 (Chorus of ayes.)

20 ACTING CHAIRMAN MIGLIACCIO: Opposed, the
21 same.

22 (No response.)

1 ACTING CHAIRMAN MIGLIACCIO: Accepted.

2 MR. BIERSNER: Mr. Chairman, I would admit
3 a copy of the minutes of the OTI work group meeting
4 of April 19th, 2009, into the docket, into the
5 previously identified docket, as Exhibit No. 0033.

6 ACTING CHAIRMAN MIGLIACCIO: Thank you.

7 Mike, how are we coming?

8 MR. BUCHET: They're going to go and we're
9 going to keep trying to load the program.

10 ACTING CHAIRMAN MIGLIACCIO: All right,
11 we'll continue with our presentation.

12 MR. ELISBURG: Mr. Chairman, we'd like now
13 to, as our group, to give you something of an
14 overview of the training materials that we've
15 developed on highway work zones. It's a product of
16 almost ten years now of working together, as well as
17 individually, in trying to pull together this work
18 zone issue. It represents six or seven years or
19 funding from OSHA through its Harwood grant program.
20 It represents -- we're in the middle of a four-year
21 multi-million dollar grant from the Federal Highway
22 Administration.

1 There are a lot of pieces to it. One is
2 sort of the fundamental, what we call awareness
3 course, which has now, like Topsy, just grown, to
4 work that we did in connection with the Subpart K,
5 and work that we did in developing a very specific
6 disaster response with respect to highway work zones
7 in disaster situations, and work that we've been
8 doing through our silica partnership involving the
9 question of potential exposure from highway milling
10 machines.

11 So we're going to try to give you kind of
12 a montage of what this is all about. We're going to
13 begin with Brad trying to give you the overview of
14 where the course is and how we've developed it.
15 Then Emmett Russell is going to pick up on a couple
16 of pieces to give a little bit of a demo of how it
17 works.

18 Brad is -- excuse me. Then Scott will
19 pick up on a little bit more and some of the other
20 bells and whistles we have and training tools. Then
21 we're going to talk a little bit more about the
22 Subpart K, and then we'd like to show you a very

1 short video on our silica partnership to show how
2 that's working between the labor, management, and
3 government on a very important issue involving the
4 milling machines.

5 Brad.

6 ACTING CHAIRMAN MIGLIACCIO: If the panel
7 just remember, just leave yourself enough time at
8 the end for questions.

9 MR. ELISBURG: Right. We'll try to get
10 out of here by 11:05 or so.

11 MR. SANT: We'll move very quickly. As
12 Don mentioned, this consortia started with ARTBA,
13 NAPA, Laborers, Operating Engineers, a number of
14 years ago and has expanded over time. It started as
15 -- well, at least this training program started
16 through a Harwood grant and, as we mentioned, it's
17 grown. So that's what we just want to show you.

18 As we mentioned, the group started with
19 four organizations and it's now expanded
20 significantly using consultants. The Laborers and
21 AGC Training and Education Fund is now part. We
22 also are pleased to have the American Association of

1 State Highway and Transportation Officials, or
2 ASHTO. That is the association of every state DOT
3 in the country. CNA Insurance. The Texas
4 Transportation Institute is a partner, and they're
5 also a partner with us in working the work zone
6 clearinghouse. Some of you may be familiar with
7 that -- as well as NIOSH has worked with us as an
8 associate member and adviser.

9 What we initially started to do is design
10 a program, a basic program that would be refresher
11 training, orientation training, focusing on common
12 hazards and injuries in the industry. It was
13 developed in a series of modules and designed for
14 like toolbox talks. Scott can show you a little bit
15 of the multi-media formats that this was developed
16 to make it available in a number of different ways.
17 We'll get to that slide in just a minute.

18 Also, it contained ways to evaluate the
19 training and its effectiveness and success.

20 As I mentioned, this can be done in an
21 interactive classroom type setting, but we'll
22 demonstrate the CD, which is pretty in depth, with a

1 lot of modules and demonstrations and bells and
2 whistles, Internet access. But it also can be done
3 very simply. I'll let Scott show some of the
4 different ways that this training can be provided.

5 MR. SCHNEIDER: We do have a student
6 booklet that summarizes the program. This is the
7 Spanish version. The booklet, we have them -- well,
8 we're going to be printing new materials. These are
9 the old materials. The new materials will be out
10 next month. We have it in English, Spanish, and
11 Portuguese.

12 I'll pass these around. You can take a
13 look at it. Each of the modules has a brochure, a
14 little trifold. So if you want to just teach one
15 module, like runovers and backovers, we have a
16 toolbox talk brochure for each of the modules, and
17 I'll pass those around. We have them in English,
18 Spanish, and Portuguese.

19 There is an instructor's guide that talks,
20 tells the instructor about each of the modules and
21 gives them tips on what they can do in teaching this
22 module, things they need to point out or ask.

1 Then lastly I wanted to mention, we
2 understand that a lot of training goes on in
3 construction not in a classroom. You may be
4 standing at the job site, on the back of a pickup
5 truck. So we developed a poster-sized version of
6 each module like this. They're English on one side
7 and Spanish on the reverse. They're laminated, and
8 most of these modules, the orientation modules are
9 about four slides long. So you can take out these
10 four slides on runovers and backovers and flip
11 through them and do a toolbox talk for 15 minutes on
12 the back of a pickup truck.

13 So I'll pass these around, and I'll have
14 these here for people to look at when they're ready.
15 All these materials can be printed from the CD
16 except for the posters. MR. SANT: So they're
17 pdf format. it's on the CD. if you don't have
18 these printed ones and we can't provide them, you
19 can print your own. Again, all this stuff is public
20 domain. It is free of charge, as well as the
21 information that we mentioned. There you see a web
22 site, www.workzonesafety.org. That's the Work Zone

1 Clearinghouse.

2 If you don't get a copy of the CD, you can
3 actually download the program via the clearinghouse.
4 If you're doing all the language and audio modules
5 it'll take a bit of time, but it's all available to
6 be used.

7 As we mentioned, it started out as a very
8 basic program, but we've now expanded it to include
9 20-plus modules. The selection of these modules was
10 based on real information that we received from BLS
11 data, from insurance claims data. These are the
12 things that are hurting and killing workers in the
13 road construction industry, and we've addressed the
14 main ways to deal with those.

15 In addition, the basic ones were set up
16 through OSHA funding, which the most recent one with
17 OSHA's funding was the disaster response module.
18 It's a pretty detailed way to deal with natural,
19 manmade disasters in roadway construction. But we
20 also now, with Federal Highway support, have
21 expanded our runovers and backovers modules,
22 multiple night work modules, even modules that deal

1 with temporary traffic control, how to set up cones
2 and barrels and whatever on the side of the roadway,
3 with graphics to explain that and demonstrate that,
4 as well as animated portions from the, they call
5 them, typical applications from the manual on
6 uniform traffic control devices, which show you how
7 to set up traffic control in various situations. So
8 all that is now on the CD in the new version.

9 As we mentioned, it's multiple lingual.
10 You can switch simultaneously between English,
11 Spanish, and Portuguese. We'll show you that.
12 There are even audio files so you can click, and if
13 you don't speak Spanish or Portuguese or English,
14 you can click the audio file and it will read the
15 slides for you.

16 Again, it's very interactive. A lot of
17 demonstration. So you're not just teaching; you're
18 actually showing them through interactive
19 demonstrations various types of situations, to make
20 it a little more real than just words.

21 We mentioned we've added new topics to
22 this: temporary traffic control, night work,

1 runovers and backovers, disaster response. Again,
2 this interactive training and automated guidance
3 here. You're seeing how to set up a shift taper and
4 what are the specs. You can change the speed
5 limits, you can change the road design, and it'll
6 automatically recalculate how that's all set up.

7 Again, this is a very brief overview. All
8 this is available through the clearinghouse. You
9 can download that at workzonesafety.org.

10 Oh, yes. What we're going to demonstrate
11 to you is our beta version. It just arrived this
12 morning, our new Version 9. We found a couple of
13 bugs in it still. However, that will be available
14 within a few days. But we have our Version 8 here
15 that is fully operational, and it does contain all
16 the modules without the new ones. Now those are
17 here for making available to the members of the
18 committee first who may want them, and if not,
19 others after.

20 How we have done this, a lot of work has
21 gone on through this program. We've trained
22 thousands of people directly, some of these in other

1 programs as well through the federal highway grant,
2 which has included OSHA ten-hour training, the
3 roadway safety training, and other work zone safety.

4 Also, with the support of the contract
5 that we have with Federal Highway, we've been
6 working on the new ANSI A-10 standard for roadway
7 construction. That's in its final phases of
8 completion. And also new guidance documents dealing
9 with work zone controls for motorcycle riders,
10 construction vehicle access and egress from work
11 sites, which is a very dangerous situation, speed
12 limit and speed management, and Subpart K, as we've
13 mentioned.

14 So that's kind of a brief, let's you know
15 what we're going to show you, and now we're going to
16 show it to you.

17 I'd just like to say that one of the
18 connections you asked was how does this all work
19 with the stimulus program. What we have here -- and
20 we're kind of going through it in a -- if you could
21 just leave that slide up. Right there is a good
22 example. We have developed now something for

1 everyone. We have developed now for basic training,
2 we have developed now for people who are just
3 entering the work force.

4 From the instructor's point of view, they
5 can set this up for a simple class that would be a
6 few hours. They can even take it module by module
7 in 10 or 15 minutes. They can do more
8 sophisticated, as larger companies are doing, and
9 turn it into a one-day course, a two-day course, a
10 three-day course. You can go as deep as you want
11 here depending on the need.

12 It is multi-language in that it's English,
13 Spanish, and Portuguese. It's very interactive. It
14 has a lot of demos to it. Therefore, we're, as the
15 folks testified this morning, we're expecting a very
16 diverse group of people to be coming into the arena
17 with all this money, and therefore this is the kind
18 of course that can be adopted to whoever you need to
19 adopt it to.

20 Our first demo on it is going to be Emmett
21 Russell. It's all yours.

22 MR. RUSSELL: You first.

1 MR. SANT: Just very quickly, you'll
2 notice that after you install this across the top
3 there's a number of tabs here. The tab here is one
4 you can set module order. Tab two here, eventually
5 as we do updates to the program you'll be able to
6 click on this. It'll tell you whether you have the
7 most recent versions, and if you're hooked up to the
8 Internet then you'll be able to download a newer
9 version that's available.

10 This screen setup just allows you to
11 customize it for your computer. Compliance options.
12 If you want to add compliance options, you click
13 here. This will show you any relevant OSHA standard
14 as applied to a certain hazard that may be
15 discussed. As well, you can do it individually or
16 pick any state and it'll show you any specific state
17 regulations that apply to those hazards as well. So
18 those are all options that are available.

19 You can use quiz settings. It has quizzes
20 at the beginning and end of each module. If you by
21 chance have what they call audience response
22 systems, kind of the little remote controls that

1 allow participants in a class to click answers, it's
2 set up to use that system as well. So you can make
3 it very interactive.

4 Again, units of measure; it'll switch
5 between metric and English. Then, as we mentioned,
6 this is where -- from this menu you can pick and
7 it'll print any of those materials that we handed
8 around the class, send them to Kinkos, however you
9 want to do it.

10 So anyway, that's kind of a quick overview
11 of how it works. We'll go ahead and start the
12 program. I'm going to turn up the audio a little
13 bit so you can see some of those features.

14 (Musical introduction.)

15 Go ahead, Emmett.

16 MR. RUSSELL: This is actually the star
17 screen. If we can, let's go to the next screen,
18 Brad. This shows everyone who's been involved in
19 developing the roadway safety program.

20 Next screen. Every one of the screens
21 comes -- every one of the modules actually asks a
22 question, and then the next screens actually will

1 answer those questions.

2 Can we put in some sound, Brad, so they
3 can see how the program will actually read?

4 MR. SANT: Look down there on the bottom
5 under voice.

6 MR. RUSSELL: Okay.

7 MODERATOR: "We are made aware of the
8 hazard. We are given ways to avoid the hazards. We
9 raise safety concerns with our supervisors."

10 MR. RUSSELL: Let's change the language to
11 Spanish.

12 (Moderator's voice in Spanish.)

13 MR. RUSSELL: The big advantage with the
14 program is you can change the languages. We can
15 change to Portuguese, and again the program will
16 actually read Portuguese for you. So if you're
17 dealing with a Spanish or Portuguese language
18 training crowd --

19 (Moderator's voice in Portuguese.)

20 MR. RUSSELL: Let's go back to English.

21 MODERATOR: Ask for instructions if you
22 don't understand.

1 MR. RUSSELL: Again, you're going to be
2 able to get a copy of the CD, but we'd like to just
3 go through.

4 Now we'd like to go to runover-backovers.

5 MODERATOR: "Can we be safe near equipment
6 and traffic?"

7 MR. SANT: We'll turn the audio off.

8 MR. RUSSELL: Right. Then we'll go on to
9 the next slide.

10 As you see, there's a button there,
11 "Demo," on each of the slides. On a lot of the
12 slides we actually have demos built in, where you
13 can actually go to a demo. This is a demo where we
14 actually have a diversion in a roadway.

15 Brad, do you want to just carry them
16 through that? MR. SANT: Sure. This
17 is taken from a typical application from the NUTCD.
18 What this is showing is how you might set up traffic
19 control if you were going to replace a bridge on
20 those eastbound lanes and divert the traffic over
21 onto the westbound lanes.

22 So what it does is it'll give you all the

1 potential signs that need to be used in setting up
2 that traffic control, and allows you to drag and
3 drop them to where they would properly go. So if
4 you're in a class setting, it can be kind of a fun
5 quiz or interactive. You can make it simple. "End
6 roadwork," you know that's probably going to go at
7 the end of the site. So if you put it where it's
8 supposed to go, it sticks. If you take a sign and
9 you put it and it doesn't go there, it simply drops
10 back to its position until you get it right.

11 Again, if you can't figure it out you can
12 click and it'll show you where all the signs go.
13 There's eastbound signs, and you can do westbound
14 signs as well. So just an interesting way to make
15 the traffic control more understandable and teach
16 people how to set it up.

17 MR. RUSSELL: Next slide.

18 Again, this slide, you actually get into
19 the different classes of vests, safety vests. When
20 you put your cursor over each one of the vests, it
21 actually gives you a description for that vest
22 class: class 1, class 2, class 3. So that anyone

1 who might have -- would like to know the differences
2 between the different type vests, it'll actually
3 give that to you.

4 Next.

5 Dealing with construction equipment, we
6 have a demo here. This is what we call the blind
7 spot demo, developed by NIOSH. On the NIOSH web
8 site they actually have a lot more examples than
9 this single example. But on this slide, if you were
10 to look at the top you'll see the operator's seat
11 and you'll actually notice what the operator sees.

12 On the bottom you'll actually see a person
13 behind the equipment or in the blind spot of the
14 equipment, and you can actually train a worker, what
15 the operator sees and where the blind spots are.
16 Now, in that position if you look in the mirror,
17 operator's mirror, you'll actually see the person in
18 the operator's mirror. If you go in the shaded
19 areas, you'll see the person leave the operator's
20 view.

21 This is an excellent way to actually train
22 workers where to be, where not to be, in relation to

1 understanding equipment blind spots and what the
2 operator can actually see on the project.

3 MR. BUCHET: Are you working to include
4 more types of equipment?

5 MR. RUSSELL: On the NIOSH web site, they
6 actually have a number of different pieces of
7 equipment and the blind spots generated by those
8 different pieces of equipment. So again, we would
9 encourage you to go to the NIOSH web site. Use this
10 as a start, and you can use the web site, where you
11 can actually see the blind spots generated by all
12 kinds of different types of equipment.

13 MR. SANT: Actually, Mike, we just
14 completed an expanded version of this module that
15 includes I think about a dozen different pieces of
16 equipment. For each one, you can click on it and
17 see what the blind spot is behind it.

18 MR. RUSSELL: Next, can we go real quickly
19 to operator safety. Again, the same demo is here as
20 it relates to blind spots. But it'll give you a lot
21 of points in terms of what operators should know in
22 terms of being safe on equipment.

1 Again, when you're teaching this course
2 you can switch between the languages at any time.
3 It'll actually use the voice at any time. Again, we
4 have actually embedded the different demos.

5 One more, which is the same demo we showed
6 before.

7 MR. SANT: Do you want to just go to the
8 flagger one and show that demo?

9 MR. RUSSELL: Yes, we can.

10 MR. SANT: What we can do is you can
11 change -- as you saw, you can set the program order
12 and change those around. But if by chance you've
13 set that up and you want to deviate from what you've
14 shown, you can go up here to this little box on the
15 top corner and pick any of the modules that are
16 available and jump to that.

17 One of the interesting demos is in the
18 flagger module, so we'll jump over there.

19 MR. RUSSELL: This is just something. You
20 know, one of the things that people don't really
21 understand or don't have an appreciation of, when we
22 talk about risk communication, how important that

1 is, is how long it takes for a car to stop if it's
2 traveling at such and such a speed. So we have this
3 demo, which is one of the first ones we developed,
4 and you can set the car speed, say for 65 miles an
5 hour. You can set it for dry pavement or wet or
6 gravel or packed snow or ice. Then you can click
7 the brake button and it shows how long it takes for
8 that car to stop.

9 You can see, well, if it takes about 500
10 feet -- or you can also change it to meters. But if
11 it's on wet pavement, you can see the difference.
12 Click "Start" again, and then you hit the brake
13 button. It's considerably longer, almost twice as
14 much on wet pavement.

15 You can actually set it for 80 miles an
16 hour on ice and sleet, in which case -- so if you
17 click the brake, it doesn't stop.

18 Let me say this. This module trains a
19 flagger. For instance, when you have a flagger on
20 the highway, based on the speed, based on the
21 conditions, and the flagger has to stop the traffic,
22 the flagger has to make a judgment as to where they

1 have to stand, how far in advance the motorist has
2 to see them so they'll have to be -- so they'll be
3 able to stop the traffic in enough time to protect
4 construction workers.

5 MR. SANT: We're going to wrap up now, but
6 as you can see there's an enormous amount of stuff.
7 If you look at all the different modules, we have a
8 lot of stuff in here that is relevant not just to
9 road work. We have a demonstration for trenching
10 safety that shows how quickly a trench can collapse
11 and what the weight of the soil is and the force of
12 impact. We have demonstrations for noise and
13 hearing loss that show people what it sounds like if
14 you have hearing loss or tinnitus. We have lots of
15 other stuff in this module, in these modules, on
16 lifting hazards. We have typical application
17 basics.

18 We've got just an enormous amount of stuff
19 stuffed into this one CD-ROM. So I hope when we'll
20 get the new version out, my guess is by early May,
21 and we will make sure we send copies to everybody on
22 the ACCOSH. Sincerely, if anybody wants copies for

1 their company, to give to their clients, or wants
2 copies for their state program, we'd be happy to
3 provide copies. We're going to print thousands of
4 these, and the ancillary materials that go with
5 them.

6 MR. ELISBURG: We have two more things
7 we'd like to do before we wrap up here. Mike,
8 you're going to help us run our video. But before
9 we do that, we did have this module on disaster
10 response. We developed it as a module and we now
11 actually have it as a stand-alone.

12 What it is -- and it was used quite
13 extensively in the hurricane issues and the flooding
14 issues and so forth -- is that almost the first
15 thing that happens with a disaster is they call
16 crews out to work on the roads and highways. What
17 we've developed is a module that helps the workers
18 understand that they're doing their regular highway
19 work in an entirely different environment, entirely
20 different safety and health hazards, under an
21 entirely different supervisory structure involving
22 incident commands and people in jeeps and all kinds

1 of stuff.

2 So what we did was to take the regular
3 highway work and superimpose on top of that the
4 issues that you're facing when you're working in
5 disasters, both the health issues, the need to get
6 your shots, the fact that you may be working around
7 snakes -- all kinds of things that make the disaster
8 process different.

9 The last thing we'd like to do, if we can
10 get it started, is to run the video that we put
11 together involving the silica program, to give you a
12 feel for what we're doing with the silica and
13 milling machines. That is, if the machinery will
14 work. Just give us a minute, Mr. Chairman.

15 (Pause.)

16 MR. RUSSELL: We have a video that we want
17 to show you about how we're working with, this group
18 is working on dealing with the silica and milling
19 machine issue, assuming the thing starts.

20 (Video shown.)

21 MR. ELISBURG: Thanks. We just point out
22 that this test was done last summer up in Marquette,

1 Michigan, on an abandoned airport that one of our
2 contractors, one of the NAPA contractors located.
3 Everybody hauled their machinery up there and
4 gleefully spent days and nights running the
5 equipment back and forth a mile at a time in very
6 controlled conditions. The people from NIOSH loved
7 it.

8 I also point out that, while throughout
9 this partnership, which has been going on four or
10 five, about five or six years now to work on this
11 issue, OSHA has been represented, most of the time
12 through Stu Burkhammer and his office. So while
13 they were not up at the Marquette site while we were
14 doing this particular test, they are in fact
15 knowledgeable and continue to stay aware of this
16 project.

17 Anybody have any questions about anything
18 we've done?

19 ACTING CHAIRMAN MIGLIACCIO: Any questions
20 from the committee? Do you have a comment?

21 MS. ARIOTO: Yes. I'd just like to
22 commend you on -- I think it's an excellent product.

1 I really enjoyed watching, and I'm looking forward
2 to seeing the whole product. So thank you very
3 much.

4 MR. BIERSNER: Bob Biersner, Solicitor's
5 Office.

6 Do you have CDs on both of these
7 presentations?

8 MR. ELISBURG: Yes.

9 MR. BIERSNER: I would like to enter into
10 the previously identified docket the -- you have a
11 Power Point presentation as well? Okay -- the Power
12 Point presentation by Roadway Safety Plus as Exhibit
13 0034; the training CD by Roadway Safety Plus as
14 Exhibit 0035; and the information CD on silica
15 exposures during pavement milling as Exhibit 0036.

16 As a side observation, I'd also like to
17 state that I discussed previously with Mr. Sant
18 admitting his remarks to the docket and he will
19 supply them to Mr. Buchet, who will submit them to
20 Sarah when she's here next week, and they will be
21 identified in the already identified docket as
22 Exhibit 0032.

1 Thank you.

2 ACTING CHAIRMAN MIGLIACCIO: Thank you.

3 Questions?

4 MR. GILLEN: I'd just like to make a
5 comment. I think the presentations provide a good
6 model for us to think about when we think about the
7 stimulus as far as a model approach for industry and
8 government working together to address hazards, and
9 it's something we can think about for other parts of
10 the construction work that's likely to come down.

11 In addition, the concept of the
12 clearinghouse is also a useful concept that we might
13 want to think about, as far as having a way to get
14 information to people quickly related to stimulus-
15 related hazards.

16 ACTING CHAIRMAN MIGLIACCIO: Thank you.

17 Any other comments, questions?

18 MR. BIERSNER: Mr. Elisburg also gave to
19 me a CD entitled "Roadway Safety, Disaster
20 Response," which was not actually presented, but
21 mentioned in the discussion. I would like to admit
22 them in the previously identified docket Exhibit

1 0037.

2 ACTING CHAIRMAN MIGLIACCIO: Anything
3 else?

4 (No response.)

5 ACTING CHAIRMAN MIGLIACCIO: I'd like to
6 thank the committee -- or I'd like to thank the
7 panel, excuse me, personally for getting us right
8 back on time again, with five minutes to spare.
9 Thank you.

10 While we have this five minutes, we're
11 going to use it to do some more housekeeping. Tom
12 Kavicky.

13 MR. KAVICKY: Thank you, Mr. Chairman. As
14 part of the residential work group report at
15 yesterday's meeting, in addition to some of the
16 recommendations that were made, I would ask that --
17 I would like to make a motion that OSHA have a room
18 available for a residential fall protection
19 demonstration by Tom Bobick of NIOSH and possibly a
20 few vendors to display their latest and greatest
21 fall protection equipment to the residential fall
22 protection work group at the July ACCOSH work group

1 meeting.

2 ACTING CHAIRMAN MIGLIACCIO: Do we have a
3 second?

4 MR. ZARLETTI: I second the motion.

5 ACTING CHAIRMAN MIGLIACCIO: Thank you.
6 Questions or discussion?

7 MR. BUCHET: You can certainly recommend
8 it. We'll see what we can do.

9 ACTING CHAIRMAN MIGLIACCIO: Thank you.
10 Okay. Question?

11 MR. RUSSELL: Yes, one other comment. In
12 terms of doing our presentations, I have to say that
13 OSHA's computer is a little outdated, and if there's
14 any way we can make a recommendation that when it
15 comes to this committee in future committee meetings
16 that we attempt to have OSHA get a little more
17 updated technology, because with the updated
18 technology we could actually use the same machine to
19 do everything, versus what we went through today.

20 Thank you.

21 ACTING CHAIRMAN MIGLIACCIO: Let's take
22 the vote on the motion now. All in favor say aye.

1 (Chorus of ayes.)

2 ACTING CHAIRMAN MIGLIACCIO: Opposed, say
3 the same.

4 (No response.)

5 ACTING CHAIRMAN MIGLIACCIO: It carries.
6 Thank you.

7 MR. RUSSELL: Emmett Russell, employee
8 committee member.

9 ACTING CHAIRMAN MIGLIACCIO: Our next
10 presentation will be on green construction. Don
11 Ellenburger will be the presenter, from the Center
12 for Construction Research.

13 STIMULUS IMPACT: GREEN CONSTRUCTION

14 MR. ELLENBURGER: Thank you. My name is
15 Don Ellenburger, not to be confused with "Elisburg,"
16 right, Don? I am a construction worker. I'm a
17 sheet metal worker. I've been a member of my home
18 local, which is in San Francisco and San Jose,
19 northern California, for 27 years. I worked for ten
20 years as a journeyman and a foreman in northern
21 California in Silicon Valley.

22 The last ten years I have been working for

1 CPWR, the Center for Construction Research and
2 Training, as the environmental hazard training
3 director. CPWR is the construction research and
4 training program or arm of the Building Trades
5 Department of the AFL-CIO. I'm very glad to spend a
6 little time with you today to discuss what we
7 understand is the green construction stimulus
8 program.

9 The conference agreement includes \$750
10 million for a program of competitive grants for
11 worker training and placement in high-growth and
12 emerging industry sectors. Within the amount
13 provided, \$500 million is designated for projects
14 that prepare workers for careers in energy
15 efficiency and renewable energy, as described in the
16 Green Jobs Act of 2007; \$125 million in the Green
17 Jobs Act authorized annually to create an energy
18 efficiency and renewable energy worker training
19 program. Its purpose is to identify needed skills,
20 develop training programs, and train workers for a
21 range of industries.

22 The Green Jobs Act has not been funded by

1 a regular appropriation. As a result, the Department
2 of Labor has been unable to issue the regulations
3 necessary to implement the program. But as the new
4 Secretary of Labor was a sponsor of that Act when
5 she was a member of the House of Representatives,
6 that might change.

7 What makes the Green Jobs Act important
8 within the context of the ARRA is the language that
9 ties the two together. It says, and I quote:
10 "Within the amount provided, \$500 million is
11 designated for projects that prepare workers for
12 careers in energy efficiency and renewable energy as
13 described in the Green Jobs Act of 2007." End
14 quote. So there is a direct tie between the two.

15 So let's look at some of the allocations
16 of interest from the Environmental Protection
17 Agency. I just attended a conference last -- early
18 this week, actually, up in Philadelphia, sponsored
19 by the EPA and -- oh, the other sponsor just slips
20 my mind. The EPA Director of Assessment and
21 Remediation Division, Office of Superfund
22 Remediation, Elizabeth Sutherland, was there and she

1 said -- that was on April 13th -- that EPA would
2 soon release -- and it has in fact released -- a
3 list of 50 new sites from the national priority list
4 that will be selected for remediation under the
5 program.

6 These would include water recovery, energy
7 use -- oh, excuse me. She also said that EPA --
8 this is the Superfund cleanup work that we're
9 talking about. She said that they're going to try
10 and get green in their Superfund cleanup, just as
11 construction and other things we're thinking about
12 green.

13 What she meant by that is that they would
14 include issues such as water recovery, energy use,
15 noninvasive plant species, and other methods to
16 reduce the carbon footprint while they're trying to
17 do cleanup of these contaminated sites.

18 EPA Region 3 is now working on a voluntary
19 green standard, attempting to develop a definition
20 of what green remediation is. One consideration
21 that they have, though, is would conducting green
22 remediation and thus spending more money to do

1 cleanup -- because if you assume that if you do your
2 work in a method or manner that uses less carbon, it
3 may cost more money -- would that result in a lower
4 number of Superfund sites that really can result and
5 end up being cleaned up.

6 So that's the question. It would be a
7 question of reducing the carbon produced during
8 cleanup versus the amount of pollution that we
9 actually do get to clean up, so which is greener.
10 An interesting question.

11 Of the brownfields funds, \$100 million up
12 there, EPA said that 45 million will be exempt from
13 usual state cost-sharing requirements, and 5 million
14 will be slated for worker training. So these are
15 the funds then that EPA is making available for some
16 of the stimulus activities.

17 On the Department of Energy, of the \$5.5
18 billion for federal construction, 4.5 must achieve
19 the highest levels of building efficiency,
20 considered high performance green building. Very
21 interest: high performance green buildings. That's
22 quite a significant amount, 4.5 billion.

1 Appropriations in excess of \$4 million are
2 provided to the Office of Federal High Performing
3 Green Buildings to establish green building
4 standards.

5 \$5 billion is to promote home
6 weatherization packages covering costs of insulating
7 low income homes and providing more jobs for
8 workers. Residents may receive a maximum of \$6,500
9 towards weatherizing their homes. Thousands of jobs
10 are expected to be created for these projects.

11 The economic stimulus package provides \$11
12 billion for energy transmission projects, \$9.4
13 billion of which relates to energy production
14 governed by the Energy Department's Office of Energy
15 Efficiency and Renewable Energy. Of the \$6 billion
16 provided for renewable energy, 3.4 is set aside for
17 carbon capture research and development.

18 The smart grid technology program will
19 provide funds for infrastructure technology
20 development on a regional basis, providing matching
21 grants to states to implement smart grid
22 demonstration projects.

1 Additionally, there are additional funds
2 for the various DOE sites for additional cleanup,
3 and they're listed here: nearly \$2 billion at the
4 Hanford site, over \$1.5 billion at Savannah River,
5 755 million at Oak Ridge.

6 CPWR does training at DOE sites around the
7 country. We have already noticed an increase in the
8 demand for worker training at these sites, and it is
9 because the demand for workers is increasing there.
10 So you could say that for this type of green
11 construction, if you consider cleaning up that mess
12 to be green, we're already seeing an increase in
13 that.

14 I think when we talk about green jobs,
15 though, we really need to think, what are we talking
16 about, because it means different things to
17 different people. In new construction there are
18 various models available, such as Green Globes and
19 the USGBC, the U.S. Green Building Council's
20 leadership in energy and environmental design
21 program.

22 When we hear terms such as "new budget

1 efficiency," like we heard in the previous slide, a
2 lot of us often think of LEED certification. What
3 will construction workers need to know about LEED,
4 is a question we have. On another level, we can
5 consider home improvements and the workers who will
6 be doing these improvements by retrofitting homes
7 and apartments, because pretty logically that's a
8 type of green work or green construction; the wind
9 farms and the solar farms and other exotic renewable
10 enforcement systems.

11 Perhaps the least exciting one, but one of
12 by far the most far-reaching, is the cleanup of the
13 messes that we've already made around the country.
14 So I want to look at these a little more closely.

15 Let's look at LEED. When designing and
16 building a new structure, LEED offers a template for
17 measuring how sustainable the job is. And they have
18 various categories. So for example, in site
19 planning what they're talking about there are things
20 such as in the planning of the site are you reducing
21 the pollution that has developed there. Are you
22 reusing a brownfield site, redeveloping a brownfield

1 site? Are you protecting the native habitat? Have
2 you incorporated stormwater control? Are you
3 controlling light pollution?

4 All of these categories in site planning
5 would earn you a point if you were the contractor or
6 the owner, depending on how well you accomplish
7 these goals. Water management includes such things
8 as landscaping, waste water technologies -- low flow
9 urinals is an example -- water usage reduction,
10 etcetera.

11 So in your job, if the architects and the
12 designers have incorporated these aspects, you get
13 to count points. The more points you get, the more
14 likely it is that you would accomplish or achieve
15 your LEED certification.

16 Energy includes optimized energy
17 performance, refrigerant management, green power.
18 If you put solar collectors on the roof of your
19 building, you get to collect points for that.

20 "Materials used" refers to using recycled
21 materials in the construction, and we heard a lot
22 about that in terms of the asphalt program going on.

1 That was very interesting. Recycling construction
2 waste, purchasing raw materials from nearby vendors,
3 and using rapidly renewable materials. Finally,
4 indoor air quality refers to increased ventilation,
5 low emitting materials and adhesives and sealants,
6 and things of that nature.

7 So that's more or less in a nutshell what
8 LEED is and how you get it. It's becoming more and
9 more popular. Indeed, if some of the stimulus money
10 will require that buildings that are going up meet
11 these standards, then that certainly is interesting
12 for the construction industry.

13 I do want to share with you some personal
14 experiences we had on a particular green building in
15 Las Vegas. CPWR was involved in City Center site.
16 It's the largest civilian construction project in
17 the United States that is currently a LEED project.
18 The question is is this a sustainable job. In other
19 words, if you're going for LEED certification you're
20 saying that you're building a more sustainable
21 building, it's friendlier for the environment.

22 But there have been many fatalities on

1 this job. I think there were six or seven
2 fatalities in a period of 14 months. From our
3 perspective, is that sustainable, we ask ourselves.

4 Here's two pictures of the job, and I just
5 want to share one experience with you. CPWR did a
6 safety climate survey on this job, among other
7 things. We surveyed over 3,500 construction workers
8 at the site and prepared a report. Our researchers
9 did a great job on that.

10 A very small role that I played here at
11 this job was to interview construction workers on a
12 personal basis. I spent a day doing that, not
13 connected to management at all, but wearing my
14 construction clothes, and trying to do I guess what
15 you might say participant observation in terms of
16 trying to get at the safety climate on this job.

17 I was at the top of the building that
18 you're looking at on the right, talking to iron
19 workers and others, laborers up there, carpenters.
20 I worked my way down the building. It was 112
21 degrees outside in Las Vegas, but there was a nice
22 breeze blowing. So with proper hydration, you could

1 manage it.

2 So I worked my way down the interior
3 stairwells of this building until I came to the area
4 where you see the curtain wall is up. I got a few
5 floors down in there and I want to tell you that you
6 would not believe the heat buildup and load in that
7 building, particularly where the plasterers were
8 applying wet cement and further down the building
9 where the sheetrock was going up and they were
10 putting mud on the walls.

11 The introduction of moisture inside there
12 created a heat load that was phenomenal. In the six
13 hours that I was at that building, there were two
14 emergency calls. Two workers were evacuated for
15 heat stress.

16 When we did our exit survey there, I asked
17 the management, the safety representatives from
18 management, why they did not leave -- on the way up
19 as they built the curtain wall up the building, why
20 didn't they leave a couple panels out on opposite
21 ends of the building to at least allow for the
22 natural ventilation to remove some of that moisture?

1 Certainly there was water on the site and people
2 could get water. But the heat load was awful,
3 particularly when there was no ventilation
4 whatsoever.

5 They told me at that time that they
6 thought it was because of the LEED requirements.
7 That is when the word "LEED" became part of my
8 vocabulary. I needed to find that out. I don't
9 think they were correct. I think they were
10 misinformed. But that is factored into how we think
11 about this.

12 CPWR is considering funding research on a
13 very intriguing project that's come out of the
14 University -- of Oregon State, excuse me, some
15 researchers there, John Gambatese and Sathi
16 Rajandran, on what they -- they are trying to
17 develop a model that they call "sustainable
18 construction health and safety rating." This is a
19 model that would parallel the LEED rating, which I
20 find very interesting.

21 If we rate an edifice that we create on a
22 green scale that takes into consideration site

1 selection, energy use, water management, materials,
2 and indoor air quality, as I indicated earlier,
3 thinking that that makes the building more
4 sustainable, can't we also factor in these
5 measurable and ratable factors such as, for example,
6 the general contractors and subcontractors safety
7 records? If we factored those in when we selected
8 them, could we get a point?

9 If we rated the safety and health hazard
10 identifications in the drawings, did the architects
11 indicate where those specific hazards would be?
12 What about the specification of less hazardous
13 materials in the construction of the building? If
14 the owner had selected and identified a safety
15 representative to represent them on this job?

16 How about designing for worker safety and
17 health, constructor site-specific safety plan, pre-
18 task planning, a look-ahead schedule? A look-ahead
19 schedule really refers to trade stacking, which
20 anybody who's been a construction worker knows that
21 when another craft takes your work down so they can
22 do their work it tends to create a little bad blood

1 on the job, and that can have a negative effect on
2 the climate of safety on that job.

3 So that has been engineered into the job,
4 whether willingly or not, consciously or not. It
5 can be engineered out by conducting a look-ahead
6 schedule.

7 Good housekeeping, safety orientation. In
8 other words, what I'm trying to say is that we are
9 looking at another model that parallels the LEED
10 model, that could measurably rate a construction job
11 based on these criteria to help reduce injury and
12 illness.

13 I believe one of the last ones here we had
14 was, are engineering controls for health hazards
15 included in this project. I think if they had been
16 on the picture I showed you, if they had included
17 engineering controls to take into account the heat
18 load, that we would not have had all of these
19 emergency calls and workers evacuated off that
20 building for heat stress. So that's one thing.

21 So that's some of the ways we look at the
22 LEED construction of new buildings. But now we're

1 also talking about weatherization retrofits. Aside
2 from new construction, we have the issue of
3 improving energy efficiency of existing buildings.
4 Primarily we're concerned with the building envelope
5 -- windows and doors, insulation, roofing, etcetera.
6 Green jobs will include modifying these existing
7 structures.

8 The stimulus package contemplates a
9 significant increase in the work force in order to
10 accomplish this. Who's going to do this work? What
11 specific training is going to be required? When new
12 workers are hired to replace windows in residences,
13 to insulate homes, to caulk the openings, will they
14 be aware of their safety rights and will they be
15 aware of their safety responsibilities? Will they
16 be able to recognize the hazards and control them?

17 Will employers entering this field
18 understand their responsibilities and provide the
19 necessary controls and training? One of the
20 interesting things from our point of view is what
21 Scott Schneider suggested earlier, was perhaps
22 linking some requirements on health and safety

1 training into this fund, these funds.

2 Other green energy jobs. Sustainable
3 energy systems, we all understand those to be green
4 jobs. Not only will we be looking at new workers
5 entering construction, but an increase in energy-
6 related construction projects for the existing
7 construction work force. Will they know what they
8 need to know about when wind tower construction,
9 high-angle rescue, blackout-takeout procedures and
10 the like on these particular jobs?

11 As green construction increases, safety
12 and health training for an expanding work force will
13 be crucial.

14 We have already seen an increase in the
15 need for PCB-related hazardous waste worker training
16 among the bricklayers in the state of New York, who
17 are pointers, caulkers, cleaners doing abatement in
18 schools that are contaminated, that contain a lot of
19 old caulking and it's contaminated with PCB.

20 Although the state and some counties tried hard to
21 avoid doing site assessments because they didn't
22 want the fact that PCBs are there to be pointed out,

1 once they were shown to exist then they had to go
2 through the proper remediation techniques and
3 training that followed that.

4 As weatherization efforts increase,
5 especially in older schools and other buildings,
6 increasing exposures to PCBs will be encountered.
7 Along with this growing hazard are the more common
8 exposures to asbestos insulation, lead paint, and
9 the rest.

10 Currently the R-C-R-A, RCRA, exempts
11 derived wastes from the HAZMAT requirements. But
12 this doesn't mean that it's not dangerous. The
13 recent collapse of the TVA ash retention dam, a \$500
14 million estimated cleanup, is an example. Fly ash
15 and coal slag are widely recycled into cement,
16 concrete, cinder block, abrasive blasting grit, and
17 other uses.

18 Similarly, waste streams from absorber
19 units to remove sulfur oxide from stack gases are
20 the source of much of the gypsum that is used in
21 drywall and in portland cement. There will be
22 increasing incentives for using these wastes and

1 building materials as recycled content and end of
2 life issues, as was pointed out earlier. What
3 hazards will these present to construction workers?

4 So at end, home weatherization efforts
5 will increase tremendously. Many of the people
6 hired to do these tasks will be the least able to
7 protect themselves from the related hazard. So we
8 believe, the building trades, that there has to be a
9 significant increase in health and safety training
10 across the board in construction, to include OSHA
11 10s, 30s. Logically, we will need more master
12 instructors to reach them, more OSHA 500s, to
13 increase the number of instructors that do this.

14 Many unions have pointed out the need for
15 energy audit training, to be able to train their
16 members to do energy audits on buildings. Wind
17 turbine construction and maintenance will affect not
18 just the ironworkers, but maintenance workers,
19 electricians, many other crafts. Weatherization,
20 lead, asbestos, silica, and PCB -- the exposures to
21 these toxins will go up dramatically as we start
22 getting our hands on these older structures.

1 Green construction -- green construction
2 is construction. I often say -- a lot of people
3 say, well, I've been in green construction since I
4 was an apprentice. So what is the difference
5 between construction and green construction? It's
6 something that we're struggling with, we're looking
7 at hard. But we're seeing that there's a big push
8 now towards LEED construction, and that's why we're
9 interested in these other alternative models that
10 can be used to improve worker health and safety. So
11 I guess it just depends what really is your
12 estimation about what constitutes green
13 construction.

14 That concludes my comments and I'd be
15 happy to answer any questions you might have. And
16 Frank, I think I gained you another ten minutes.

17 ACTING CHAIRMAN MIGLIACCIO: It depends
18 how many questions. Thank you.

19 Do we have any questions?

20 MR. KAVICKY: Just a comment, Mr.
21 Chairman. I'd like to thank Mr. Ellenburger for
22 coming out today and presenting this information to

1 ACCOSH. Very interesting. Thank you.

2 ACTING CHAIRMAN MIGLIACCIO: Any other
3 questions?

4 MR. BIERSNER: I understand that we have
5 your Power Point?

6 MR. ELLENBURGER: Yes.

7 MR. BIERSNER: I would like to admit that
8 to the docket for this proceeding as Exhibit 0038.
9 Now, are you reading from a script that
10 you could submit to us, or would you like to provide
11 a copy of that to us later?

12 MR. ELLENBURGER: Can I do that later?

13 MR. BIERSNER: Okay. Would you end it
14 either electronically or submit it to Mr. Buchet?

15 MR. ELLENBURGER: Certainly.

16 MR. BIERSNER: Who will then forward it on
17 to the Solicitor.

18 And I would like to identify that for the
19 docket as Exhibit 0039.

20 ACTING CHAIRMAN MIGLIACCIO: Any other
21 questions, comments?

22 (No response.)

1 ACTING CHAIRMAN MIGLIACCIO: Seeing none,
2 thank you.

3 I'd like to remind the public that there's
4 still the sign-in sheet in the back and there will
5 be time for public comments. Sign up if you would
6 like to address the committee.

7 Our next presentation will be on the
8 stimulus impact of the transit other sectors. It
9 will be Marco Giamburdino.

10 MR. GIAMBURDINO: Yes, sir.

11 ACTING CHAIRMAN MIGLIACCIO: Thank you.

12 (Pause.)

13 ACTING CHAIRMAN MIGLIACCIO: Marco, if
14 you'll state your title also, please.

15 STIMULUS IMPACT: TRANSIT/OTHER SECTORS

16 MR. GIAMBURDINO: Sure. I'm Marco
17 Giamburdino. I'm the Senior Director for our
18 Federal and Heavy Construction Division. I work in
19 our Government Affairs Department over at the
20 Associated General Contractors of America.

21 I want to thank the chair and the
22 committee for inviting us to speak today. I

1 appreciate the opportunity. Basically, I want to
2 lay out what AGC has done in relation to the
3 stimulus package, how we've been informing our
4 members, how we were -- what the impact of the
5 stimulus is overall, since our association
6 represents all types of construction with the
7 exception of single family residential.

8 Over the past 2 years, based on the
9 economic conditions, we've lost nearly a million
10 employees in terms of our work force, and that's
11 been a real challenge for our members. The credit
12 crunch has been extraordinarily tight. It's been a
13 real negative impact, particularly on the private
14 construction market. That essentially has dried up.

15 When you factor that in with the call for
16 the economic recovery package, there's been an
17 increasing amount of interest, of course, from
18 contractors who normally do that sort of private
19 work moving into the government market and the
20 public market. The key question is, with the
21 passage of the Recovery Act, how do we build upon
22 that? This is not just a short-term sort of impact,

1 but how do we really have achievable, sustainable
2 growth for our economy again?

3 During the discussions for the recovery
4 package, we commissioned a study with George Mason
5 University. Dr. Steven Fuller looked at the total
6 job impact, looked at the DOT job numbers, looked at
7 the Bureau of Labor Statistics and a lot of the
8 other federal agencies that do perform construction
9 work. The impact on construction, investment in our
10 infrastructure and the construction industry is
11 pretty significant. Every billion dollars invested
12 creates about 28,500 jobs on the average.

13 We took that data and we were able to
14 distill that back down on a state by state basis as
15 well, so we were able to provide that to the
16 agencies and to members of Congress, to let them
17 know what the impact was going to be based on their
18 home, in their home areas as well.

19 We also surveyed our members at the end of
20 last year, just to get an idea of where they were
21 and where they were regarding how the economy was
22 affecting them. Over two-thirds had surveyed that

1 they were planning layoffs, but they had indicated
2 that they would hold off on layoffs if they know
3 that the recovery package was going to manifest
4 early this part of the year.

5 Our goal was of course to advocate for
6 strong investment in infrastructure, and that that,
7 based on the job numbers we described before, that
8 that does provide real economic growth. It's not
9 just the hiring, but it's also the dollars flowing
10 into those hires and then flowing down into the
11 economy based on the purchasing of materials, the
12 hiring of subcontractors, hiring of the folks who --
13 at the end of the day, once the project is done, how
14 that's going to benefit the local economy as well.

15 The idea was to use existing programs
16 through the government to help fund those dollars
17 quickly through those processes so that it does make
18 an immediate impact on the economy. Recognize that
19 there is huge needs out there for our
20 infrastructure. The American Society of Civil
21 Engineers just updated their report card and found
22 that over the next five years we need at least \$2.2

1 trillion invested in our infrastructure just to get
2 back up to where we need to be.

3 We wanted to ensure also that there was
4 adequate federal, state, and local oversight over
5 these dollars and be able to track exactly where
6 those dollars are flowing and what the impact was
7 going to be on the economy. We strongly supported
8 the idea of the no-earmarks that the administration
9 touted as well. We felt that that was a way to slow
10 down the ability for the government at all levels to
11 move projects.

12 So how does the -- what was the total
13 package here? We've got nearly \$800 billion in
14 spending and tax cuts. The goal is of course to get
15 it timely, targeted, get it out within the next two
16 years. I mentioned the earmark ban. I believe I
17 covered this, too. There was a big debate in the
18 Congress. Even though every Republican in the House
19 and all but three in the Senate decided to vote
20 against the package, if you look at some of the
21 floor debates the arguments really were about not
22 enough investment in our infrastructure, but a lot

1 of spending for programs that would not -- that were
2 not centered around the construction industry or the
3 impact that the construction industry could make on
4 our economy.

5 So we have \$135 billion, approximately,
6 based on our estimates in infrastructure investment
7 for our economy. That is a huge increase, of
8 course, 135 percent. Normal spending is about 100
9 to \$105 billion on the annual appropriations. We
10 thought that this was going to be a good opportunity
11 for those dollars to flow, not just from the federal
12 level, but also through the state and local levels,
13 through the state highway trust funds, although
14 through the clean water SRFs and school construction
15 opportunities.

16 The impact we estimated -- our chief
17 economist running the numbers estimates that this,
18 if all things pan out, about 2 million jobs overall,
19 with 650,000 directly, construction jobs, would be
20 created. But like I said before, based on the ASCE
21 study and other estimates based on the federal
22 agency needs, it's still really just an initial

1 investment and it's really an investment that's sort
2 of catching up for the lack of investment we've had
3 over the last 10, 15 years.

4 The breakdown the way we identified it
5 based on our sectors, of course, is the
6 transportation area, water infrastructure, building
7 infrastructure. Of course, we were very strong in
8 advocating for targeted tax provisions that would
9 benefit all types of construction. Of course,
10 there's some other policy issues I'll quickly get
11 into.

12 The way the transportation dollars break
13 down: \$27 billion for highway and bridge, all going
14 through the existing DOT formulas; \$8.4 billion for
15 transit and \$8 billion for high-speed rail. That's
16 a huge investment. I know that was something that
17 Chairman Oberstar felt very strongly about and we
18 supported as well. Also, for airport improvement
19 grants another billion dollars there.

20 On the clean water and drinking water
21 side, about \$7.5 billion overall for all different
22 types of drinking water and clean water. That's

1 about a 600 percent increase compared to normal
2 annual appropriations for this program. The EPA has
3 done a study, an estimate that there's about a \$525
4 billion need over the next 20 years to really bring
5 our drinking water and clean water systems back up
6 to speed. A lot of our systems are close to 100
7 years old and have not really been well maintained
8 or completely replaced.

9 For the Corps of Engineers, flood control,
10 navigation control, this is about a 100 percent
11 increase over their annual approps. We're still
12 waiting for it and hoping that OMB is going to
13 actually release those funds shortly. They have a
14 particular interest in taking a keen look at the
15 Corps of Engineers and making sure that those
16 dollars are going to the appropriate channels.

17 Something that was mentioned briefly in a
18 previous presentation, the environmental cleanup:
19 \$700 million for Superfund and an additional \$300
20 million. That's going to be -- I think that's going
21 to pose some good opportunities to examine how those
22 projects are reinvested, and I think there will be

1 some good challenges there.

2 On the building infrastructure, \$5.6
3 billion for GSA facilities, another \$8 billion for
4 MILCON and for VA facilities. There's a real
5 emphasis here on the green construction as well,
6 particularly. Really, none of it on the GSA side is
7 for new facilities, but for retrofitting existing
8 facilities and bringing them up to speed. Many of
9 those constructions are probably 40 years old and
10 have not had substantial renovations. The emphasis,
11 of course, will be on sustainability and green
12 construction.

13 The higher ed and K through 12 school
14 funding was a big challenge. That was a real fight
15 between the House and the Senate. The Senate wanted
16 to just kill the funding altogether. The House
17 originally had about \$20 billion for school
18 construction. They came up with sort of this
19 compromise where there would be approximately \$8
20 billion or so available to school districts. We
21 have not seen any anecdotal evidence that a lot of
22 that money is really going to school construction or

1 retrofits, because the way the pot was designed, the
2 school districts and the state education agencies
3 can basically do whatever they want with the money.
4 It can be to fund teacher salaries or other
5 activities. We haven't seen the construction side
6 on that go up yet. That's with an estimated 200 to
7 \$300 billion need for schools that need improvement.

8 Just to get a little bit into the quick
9 policy issues: On the tax side, 3 percent
10 withholding. This is an impending 3 percent
11 additional withholding that's going to be imposed on
12 all types of government contracts at the federal,
13 state, and local level. Originally that legislation
14 was supposed to go into effect January of 2011. We
15 pushed for a full repeal. We continue to do so.
16 The Congress in the conference agreement agreed to a
17 one-year deferral.

18 But this is going to have a huge impact,
19 especially in the government market, where the
20 stimulus is primarily going to be funding. Most
21 contractors probably make 2 to 3 percent margin as
22 it is. So this is going to be a real financial

1 challenge if this thing actually ever gets
2 implemented.

3 Bonus depreciation was a big win on the
4 tax side, too. It's going to be important for
5 expensing as we get into these new projects, and the
6 net loss carryback. Originally it was for all types
7 of businesses. It ended up that only it was a -- it
8 would apply for small businesses.

9 Policy provisions. Davis-Bacon wages
10 applies not just for the federal projects, but to
11 all projects funded by the stimulus package down at
12 the state and local level as well.

13 There wasn't any mention in the agreement
14 on project labor agreements, but of course the
15 administration did repeal the previous Bush
16 prohibition on PLAs and currently that policy is to
17 encourage federal agencies to implement those where
18 necessary. There was originally a provision to
19 mandate all contractors to run their employees
20 through the electronic employment verification
21 system run by the Department of Homeland Security.
22 That was taken out because it was viewed to be sort

1 of a holdup; and also, the E-verify rule is under
2 litigation right now; and also the Obama
3 Administration wants to take a better look at that
4 final rule that's been pending for the last 6 months
5 or so. In fact, yesterday they announced that they
6 are implementing another month-long delay on
7 requiring E-verify for federal construction work.

8 Buy-American provisions. Basically, it
9 expands the buy-American provisions on the federal
10 side for iron and steel, expands it for stimulus
11 dollars to manufactured goods as well. We're still
12 looking at the current FAR Council and the OMB
13 guidance to see what's the real impact of that. The
14 challenge I think is going to be that, on the
15 manufactured goods side for construction, a lot of
16 the equipment that goes into a building or into a
17 waste water treatment plant are just not made in the
18 United States at all. They're all made overseas,
19 and we're going to have to see what the real impact
20 is going to be on the construction of these projects
21 as we get into -- as contracts are additionally
22 awarded over the next year or two.

1 Originally the federal contracting rules
2 were going to apply all across the board. We made a
3 strong argument that it was impossible for a state
4 government or a local government to be able to apply
5 federal contracting rules to those local contracts,
6 so we were able to get clarification on that. Then
7 OMB recently issued guidance on the 3rd of this
8 month on how state and local entities were to apply
9 certain types of similar federal rules to their
10 local contracts.

11 I think we got into the green initiatives
12 before with the previous presentation, and of course
13 the administration pushed pretty hard on having a
14 stronger sense of accountability; and with the
15 recovery.gov web site the agencies are already
16 starting to report information on a weekly basis.
17 They are looking -- we have seen some contracts that
18 have been awarded that there's additional reporting
19 requirements already for jobs, how many jobs are we
20 expecting to be created or sustained. So we're
21 starting to see that in some of the contract
22 lettings coming out from the federal side.

1 Something to consider in the federal
2 market that we've been stressing with our members
3 and with our members who had not gotten into the
4 federal market until recently. That is just that
5 all the federal agencies have their own contracting
6 rules, even though they all are governed by the
7 overall FAR. They all behave differently. They all
8 have a different sort of culture.

9 We emphasized strongly across the board
10 that safety is a major priority for our members.
11 This is on any and all types of projects. We stress
12 compliance with all the OSHA rules and of course
13 other state and local rules governing safety and
14 health as well. We believe that that's strongly
15 critical to the success of any project. I know that
16 the agencies equally weigh those factors as well.

17 Something that was mentioned before: One
18 thing that contractors are rated on on federal
19 projects is they do get a rating and a score at the
20 end of a federal job on their safety record. That's
21 something that's kept in the federal contracting
22 databases. It's something that contractors are

1 judged upon when being considered for additional
2 further awards when they work on their next jobs.

3 The contracting officers, when deciding
4 who to award contracts to, they'll look at the
5 safety records as a major factor and award certain
6 points to different bids based on their records. So
7 I thought that was very relevant here.

8 Something that we always continue to tell
9 our members, too, is at the very basic, every
10 company working on a construction site should have
11 and develop a written safety program, follow the
12 safety manual on the federal side, not just the OSHA
13 rules, but even like the Army Corps. For all marine
14 construction work, the Army Corps has their own
15 safety manual, which of course has the OSHA rules,
16 but of course has additional considerations that
17 aren't certainly in OSHA's current rules and regs.

18 We encourage management employees to be
19 committed to safety. That is really part of their
20 culture, that they comply completely with the
21 company's safety policy, and of course the rules
22 governing those projects.

1 We emphasize that in the work force you
2 have to have dedicated safety professionals to the
3 work site, dedicated safety managers to help
4 coordinate, to help conduct inspections, employee
5 training, and also to ensure that the people on the
6 ground, the foremen, everybody on the job site is
7 aware that this is a critical part of the culture.
8 They always refer to the necessary toolbox
9 trainings, lessons learned, and those sorts of tools
10 available to them.

11 We think that the big challenges with the
12 stimulus projects will be that there's going to be
13 pressure by the agencies on contractors to deliver
14 those projects in a quick and timely manner. I
15 think the contractors are up to the challenge. They
16 don't look at safety really as so much as a burden
17 as something that they value pretty highly, from the
18 federal contractors I certainly work with. They
19 look at their safety records as something equally
20 paramount to just about anything else when it comes
21 to completing the job.

22 I think that the challenge is here getting

1 the stimulus dollars out into the economy. I think
2 that's going to be something that our members are
3 looking forward to, frankly.

4 These are just some considerations that we
5 think that need to be reemphasized over and over
6 again: planning, communication, all throughout the
7 chain of command on the work site. If there's going
8 to be a push to go to shift work and night work,
9 obviously we'd take some of those factors into
10 consideration: lighting, worker fatigue, where is
11 everybody -- how well rested is everybody -- and
12 then continue to emphasis training, since there's
13 going to be a lot of new hires and we're going to
14 have to make sure that those training programs are
15 implemented and that they make their way down and
16 get those new people up to speed on what they need
17 to know to be safe on the work site.

18 Something -- this is another sort of
19 special effort the agency's been working on the last
20 two or three years now, is a highway worker safety
21 training program. We're launchign this. We just
22 announced this at our convention a month ago and

1 we're going to be getting this out later this
2 spring. It's an effort between our highway
3 transportation division, our safety and health
4 committee in Zurich. It's going to be a video
5 series, Power Point presentations, textbooks for
6 students and instructors.

7 This is the focus on the actual safety
8 training for the workers. There's going to be DVDs.
9 We've had -- DVD footage really gives some of those
10 real-world examples of what's going on. We think
11 this is going to be a huge benefit for our highway
12 members. Highway contractors probably make up just
13 about half of our membership, so this is going to
14 have a real impact, we believe, in a positive way.

15 Something else that I've been very
16 directly involved with is an effort we set up about
17 a year ago in partnership with the Army Corps of
18 Engineers and the Dredging Contractors of America.
19 Also the Operating Engineers have been involved in
20 this group as well. That is, basically the Corps
21 puts out their safety manual every six to seven
22 years, but there's not a vehicle that really tracks

1 changes that need to be -- additional
2 recommendations that need to be made, based on the
3 safety manual, in between that six-year period.

4 So we created this partnership with the
5 Corps and also now in recent months NAFAC and OSHA
6 and other entities have gotten more involved with
7 this. This is a way to keep the lines of
8 communication open. We're meeting. The goal is to
9 meet quarterly. We just had a meeting a week ago
10 here downtown, and we hosted the meeting. It's a
11 way to just keep everybody informed. It's a way to
12 keep the Corps informed on what's going on out in
13 the field, how the safety manual is being
14 implemented.

15 It's a way for them to get feedback to the
16 Corps. It's a way for the Corps to put out interim
17 changes and get them out directly to the field. So
18 we think this would be a great opportunity to keep
19 the safety message going, particularly on marine
20 construction where there are a lot of different
21 challenges than there are with on-the-ground
22 construction or vertical construction.

1 Also, we -- I guess GPO didn't do the best
2 job of providing enough copies of the Army Corps
3 safety manual, which is not a surprise. It seems to
4 happen every couple of years when they put a new
5 book out. So we're also partnered up with the Corps
6 and we are also providing additional copies of the
7 safety manual for our members. Frankly, we've
8 gotten requests from the Corps of Engineers offices,
9 the field offices, to get copies of the book as
10 well. So we're more than happy to provide that
11 service as well.

12 Basically, quick conclusions. The economy
13 is still struggling right now. The credit market is
14 still pretty tight. We're seeing -- usually the
15 private market to the public market is anywhere
16 between an 80 to 20 percent differential. We're
17 seeing, of course, the public market increase.
18 They're at about 30 percent right now and probably
19 could get to about -- it could be about a 60-40
20 breakdown over the next two to three years once the
21 stimulus dollars are out.

22 We're still going to be keeping an eye on

1 tax changes that are still coming over the next few
2 yeas. We are encouraging our members to look at the
3 accountability as a way to just be out there and be
4 able to prioritize as much information and share
5 information with the government, the owners, and
6 with the public as much as possible. We want to be
7 able to show that this is truly making an impact and
8 that infrastructure investment is truly a huge
9 improvement for our economy. And of course, as I
10 mentioned before, safety being a huge primary focus
11 and mission for our members.

12 This is just some of our plans of what
13 we're going to continue to do: keep interacting
14 with decisionmakers like yourselves, the other
15 agencies, members of Congress, also at the state and
16 local level; keep pushing for an expansion of the
17 credit market so we can get back into sort of the
18 normal state of the economy when it comes to the
19 private market; continue to highlight the needs that
20 are out there, showing that the stimulus -- we're
21 trying to showcase as much as -- as soon as we hear
22 about a contract award that our member gets, we try

1 and let the owners know, we let the public know,
2 that the dollars are truly going to where it's
3 supposed to be going.

4 We have 33,000 member companies, probably
5 representing about 2 to 3 million employees. So
6 we're looking for our grassroots system to help keep
7 that message going all the way down the line and,
8 like I mentioned before, just keep working with our
9 partners, not just on the overall message, but to
10 continue advocating on the importance of safety as
11 well.

12 That pretty much concludes my remarks.
13 Thank you, everyone.

14 ACTING CHAIRMAN MIGLIACCIO: Thank you.
15 Questions? Can you drag a copy of it
16 over?

17 MR. GIAMBURDINO: I'm going to do that
18 now.

19 MR. JONES: I have a question. Can you
20 explain or describe any type of training you provide
21 your members in terms of safety for supervisors and
22 managers?

1 MR. CANNON: We have the advanced safety
2 management training course.

3 ACTING CHAIRMAN MIGLIACCIO: State your
4 name, please?

5 MR. CANNON: Kevin Cannon. AGC offers
6 nationwide the advanced safety training management
7 course, and it's available to the members.

8 MR. GIAMBURDINO: We also have the
9 supervisory training program that we use. It's a
10 whole series of different types of training, but
11 there is a focus on safety. There's a whole module
12 just based on that. That's for all employees. And
13 then there's a supervisor training program as well
14 that's devoted to supervisory training.

15 MS. JONES: Thank you.

16 MR. CANNON: And apparently the Focus 4 is
17 being taught through the supervisory training,
18 right.

19 MR. GIAMBURDINO: We provide that through
20 our chapters.

21 ACTING CHAIRMAN MIGLIACCIO: Any other
22 questions, comments? Bob?

1 MR. BIERSNER: Mr. Giamburdino, do you
2 have a copy of the Power Point?

3 MR. GIAMBURDINO: Yes, I just loaded it up
4 on the laptop.

5 MR. BIERSNER: Can you provide that to Mr.
6 Buchet? MR. GIAMBURDINO: Yes,
7 sir.

8 MR. BIERSNER: I appreciate that.
9 I would like to admit that to the
10 previously identified docket as Exhibit 0040.

11 ACTING CHAIRMAN MIGLIACCIO: Seeing no
12 other questions, thank you very much, Marco.

13 MR. GIAMBURDINO: Thank you.

14 ACTING CHAIRMAN MIGLIACCIO: Our next
15 presentation will be by Matt Gillen with the NIOSH.

16 STIMULUS IMPACT: TRACKING OUTCOMES;
17 RESEARCH TO PRACTICE; PROMOTING GOOD PRACTICE

18 MR. GILLEN: I'd like to thank ACCOSH for
19 the invitation to provide some NIOSH perspectives on
20 the stimulus. We're waiting for the presentation to
21 load here.

22 (Pause.)

1 MR. RUSSELL: Mr. Chairman, my request
2 earlier on the technology, can I place that in the
3 form of a motion?

4 ACTING CHAIRMAN MIGLIACCIO: Updating the
5 computer? You can make it as a formal
6 recommendation.

7 MR. GILLEN: I second the motion.

8 MR. RUSSELL: A recommendation, yes,
9 please.

10 ACTING CHAIRMAN MIGLIACCIO: A motion. Do
11 we have a second?

12 MS. ARIOTO: Second.

13 ACTING CHAIRMAN MIGLIACCIO: Do we have
14 any discussion or questions?

15 (No response.)

16 ACTING CHAIRMAN MIGLIACCIO: Seeing none,
17 all in favor say aye.

18 (Chorus of ayes.)

19 ACTING CHAIRMAN MIGLIACCIO: Opposed?

20 (No response.)

21 ACTING CHAIRMAN MIGLIACCIO: Thank you.
22 We'll take that as a recommendation.

1 MR. GILLEN: All right. With that, I
2 guess we're ready to begin.

3 We thought we would cover five questions
4 that we thought the committee might be interested in
5 thinking about. So I'll read them here. The first
6 one is what economy-related factors might affect
7 construction safety and health outcomes? What does
8 research tell us about business cycle effects on
9 safety? How well will our national injury and
10 illness reporting system allow us to observe any
11 business cycle-related trends? Are hazards
12 associated with stimulus work well known? Lastly,
13 what lessons from green construction can be applied
14 to construction safety and health for stimulus work?

15 So, looking at question one, let's look at
16 some downturn factors that might act to reduce
17 injury rates on a given project. You might have a
18 slower pace of work in comparison with the recent
19 past. A larger share of experienced workers on
20 jobs, given that less experienced workers tend to
21 get laid off first and experienced workers have a
22 lower rate of injury.

1 Fewer shortages of experienced workers.
2 Less use of older, possibly less safe equipment,
3 given excess capacity. Also, an effect caused by
4 less reporting of injuries by workers concerned
5 about job security. So those are some factors that
6 might reduce injury rates that we might see.

7 Some downturn factors that might increase
8 injury rates could include: more competitive
9 bidding leading to corner-cutting; more contractors
10 perhaps bidding on less familiar work; increased
11 reliance on overtime to get by with fewer workers;
12 stress and errors from fewer workers doing more
13 work; more lost time in cases where older,
14 experienced workers do get hurt, because we know
15 when older workers get hurt they tend to be out for
16 longer periods; possible cutbacks in safety and
17 training; and possible complacency related to fewer
18 worker safety complaints.

19 If we look at some stimulus factors,
20 stimulus work factors that might affect injury
21 rates, we can think of things such as compressed
22 project planning cycles and accelerated schedules to

1 get this work up and going; competitive bidding
2 perhaps leading to some corner-cutting on safety;
3 and also new types of work -- wind power
4 installations is used as an example -- where there's
5 perhaps a lag in recognizing and controlling hazards
6 and sharing best practices.

7 So this gives a recent clip about workers
8 injured related to wind farm construction, and it
9 involved an electrical explosion in the facility.
10 So we might have a lag time in recognizing hazards
11 and coming up with guidance for some stimulus-
12 related work.

13 But you can see we're going to have a
14 mixed picture because, as we saw from the McGraw-
15 Hill information, parts of the construction industry
16 will be experiencing an increase in work and other
17 parts are experiencing a decrease in work.

18 I asked some of the NIOSH economists to
19 share studies about the business cycle and what we
20 know about safety there. What they told me was that
21 this type of research cuts across many different
22 disciplines and outcomes. It's not easy to say that

1 you can reliable search the literature for this.
2 Most of the research is on previous recessions, so
3 it's unclear if there's something unique about this
4 recent downturn, given that it's much larger than
5 previous ones. Obviously, there's no research yet
6 on the current downturn.

7 In addition, most studies are really
8 looking at taking a broad look at national
9 statistics in all industries, as opposed to just
10 looking at construction. There were two recent
11 reports that we thought were interesting and
12 identified issues for discussion. One was a study
13 that looked at workers compensation in the business
14 cycle that just came out in March. It reviewed a
15 lot of the previous research on claims experiences.
16 They found that in general the claims declined in
17 recessions and increased during recoveries.

18 Some of the explanations were, again,
19 things such as fewer inexperienced workers, least
20 safe equipment taken out of use, workers fearing job
21 loss deferring claims, and the fact that hazardous
22 industries such as construction experienced the

1 largest decline in employment.

2 Another study looked at workplace injury
3 rates and unemployment for 14 EU countries and the
4 U.S. and Canada. It looked at two basic reasons for
5 declines in injury and fatality rates during
6 economic downturns. It could be that the slower
7 pace of work leads to fewer inexperienced workers
8 and improved safety conditions; or it could be that
9 workers change their reporting behavior because they
10 fear, correctly or incorrectly, employers will hold
11 injury reports against them when making employment
12 decisions.

13 What this study found out was that across
14 these different countries the national nonfatal
15 injury rates went down when unemployment rates went
16 up, but the national fatal injury rates were not
17 significantly affected by the unemployment rate.
18 They did find that the national fatality rates are
19 affected by the changes in the proportion of
20 manufacturing and construction workers in the work
21 force. So they concluded that recessions are not
22 good for workplace safety and that changes in injury

1 rates during recessions are most likely to be
2 related to changes in workers reporting injuries, is
3 what these researchers found.

4 If you go to the next question about our
5 national injury and illness reporting and what it
6 allows us to see, if you look at the current
7 information we have it really falls into two
8 categories. One is total numbers of injuries or
9 fatalities, and this is the information that really
10 gives us the best feeling for the impact and burden
11 on families and the nation, is the numbers of
12 injuries and fatalities. But those numbers go up
13 and down based on the amount of work going on, so in
14 a way it's less useful as a performance indicator.

15 Then we have injury and fatality rates.
16 They give us less of a picture on impact, but
17 they're really more meaningful because the
18 denominator accounts for the amount of work hours.
19 So it's sort of a better safety performance
20 indicator to look at.

21 When you look across the data that we
22 have, when you look at the sector level for ACCOSH

1 construction in general we have information on the
2 numbers of fatalities, the rate of fatalities, the
3 numbers of nonfatal, the rates for nonfatal. So
4 that helps us compare construction with other
5 sectors and perhaps look at construction itself over
6 the long term.

7 But really, to sort of dig down and find
8 out what's going on, you really need to look at the
9 sub-sector level. So there's those three sub-
10 sectors in construction: construction buildings,
11 heavy and civil, and specialty trade work. There we
12 have the numbers of fatalities; we don't have the
13 rates.

14 We do have the rates and the numbers for
15 nonfatal. If you look at one level down below
16 there, which again is -- if you were going to have a
17 trend or you want to find developments, this is
18 probably where you're going to see it the most. We
19 have numbers, but we don't have those rates that
20 tell us the most about performance for fatalities
21 there.

22 So data are available to observe the

1 nonfatal injury rates at the sub-sector industry
2 grouping level, but these are somewhat less useful
3 since they are probably most likely to be affected
4 by underreporting during a recession, and the
5 fatality rates at the sub-sector and industry
6 grouping level, we don't routinely generate those.
7 In some cases it's not possible, given the
8 information that's collected. But these would be
9 more useful because they help point to specific
10 industry groups and are not affected by the
11 underreporting during a recession.

12 It is true that some of the information
13 does exist that can be generated, so here's some
14 information that Sue Dong of CPWR, where she's been
15 able to generate rates for the major sub-sectors in
16 construction. So it can be done at the sub-sector
17 level. You can see here this shows, for example,
18 that the heavy and civil rate is higher than the
19 other sub-sectors.

20 So again, it may be challenging to track
21 whether any changes are occurring due to either the
22 recession or the stimulus to inform efforts to

1 intervene. We may want to discuss or encourage
2 stimulus project reporting to perhaps track
3 injuries, or we might want to explore new types of
4 indicators to help us keep an eye on this issue.

5 As far a hazards being well known, some
6 are well known. I think we heard clearly that work
7 involving road building and bridge building, we
8 probably do know the hazards pretty well and can
9 control them. In other cases we don't really know.
10 Some of the hazards may be less well known, such as
11 green retrofitting. Don Ellenburger mentioned this
12 as well. In the case where people are updating to
13 energy efficient windows and you're replacing the
14 caulk, studies have identified PCBs in old caulk,
15 and so that could occur, there could be exposures in
16 this part of window replacement work.

17 So this is probably an example of a hazard
18 that is less well known to folks. So it might be
19 interesting to discuss what process would help get
20 an early grasp of any new hazards identified during
21 stimulus work and how could precautions be
22 disseminated quickly when we find that out. An

1 example might be an OSHA inspection might find a
2 problem at a particular project, but it would be
3 useful to have, if it's a novel hazard, that
4 information elevated to the national office and sent
5 around.

6 In addition, NIOSH has a health hazard
7 evaluation program that could be used to help
8 identify or evaluate novel hazards as well.

9 The fifth question would be about looking
10 at lessons from green construction. Again, the
11 stimulus funding, a lot of it -- I think it was the
12 majority of the numbers that we heard this morning.
13 I believe the breakdown was 90 and 40, 90 was
14 federal and 40 was state. A lot of this work is
15 really going to be dominated by public sector
16 spending. Some of these large federal climates
17 really have embraced green ddesign and really have
18 incorporated to quite an extent in their work and
19 are actually using the stimulus funding to meet
20 their federal sustainability goals.

21 The question is, do these green
22 construction practices directly address construction

1 worker system and health? I think we would probably
2 say no. It may indirwhetherectoly address them, but
3 it doesn't directly address them.

4 Another question would be, has the
5 occupational safety and health community tried
6 building upon this approach. We heard from Don
7 Ellenburger that there is some thinking about how we
8 can create a worker safety version hopefully to sort
9 of build upon this approach. So we haven't in the
10 past done it, but we're starting to think about
11 this.

12 Again, it's just something to think about.
13 The Federal Government owns and operates 450,000
14 buildings and it's a major player in the stimulus.

15 Just to give you an example of what some
16 of the green approaches that might suggest
17 strategies that could used for safety, you can take
18 a executive order here that was passed: "Greening
19 the government through efficient energy management."
20 It created a steering committee, and then that
21 steering committee created work groups. So they had
22 an inter-agency sustainability work group, and this

1 had 60 members. In other words, every department
2 and major agency had to have a member on this work
3 group.

4 Then that work group really led the
5 federal implementation effort. That work group
6 developed guidelines and tools, provided training,
7 technical tours, fostered information exchange.
8 That group drafted an inter-agency memorandum of
9 understanding, and look at the topics. They're very
10 relevant for safety: planning, designing, building,
11 operating, and maintaining buildings.

12 They basically came up with five guiding
13 principles to help talk about this to major
14 decisionmakers and to sort of set the stage for
15 developing things further. Then this MOU, they
16 basically had 21 federal departments sign the MOU at
17 a White House summit.

18 So the result of that is that sustainable
19 practices have spread across the Federal Government
20 and we've gone from one federal LEED building in
21 2000 to 124 in 2008. There's actually 13 agencies
22 that now require new construction to sort of meet

1 some level of LEED or other certification. So
2 that's quite a change.

3 I think if you look at some of those
4 previous ideas and if you insert "safety" in there,
5 I think it gives us an interesting road map to think
6 about.

7 Here's some other examples. These green
8 approaches continue to evolve and were inserted into
9 a recent law called the Energy Independence and
10 Security Act. I just chose a few examples of things
11 that might be relevant for safety. They take the
12 agency that has the subject matter leadership, so in
13 this case for energy it's DOE -- for safety it would
14 be OSHA and NIOSH -- and they developed goals that
15 the other agencies need to meet over time.

16 In addition, the law created --
17 established federal leadership by creating an Office
18 of High Performance Green Federal Buildings within
19 GSA, to help establish practices.

20 Another example is it uses research and
21 demonstration projects. So it requires one federal
22 building each year to be a demonstration project to

1 achieve the highest possible green rating offered,
2 and that includes requirements to have measurable
3 elements to aid research. So just think about
4 something like that, to have one project a year as a
5 minimum that would achieve the highest safety
6 ratings offered, or do really the best practice
7 safety, and that it be set up to aid research on
8 costs and other examples.

9 So there's a lot of interesting ideas.
10 These are just a few. There's web-based tracking,
11 there is energy scorecards that each department's
12 going to need to do. Those scorecards are available
13 to Congress and other agencies, the public.

14 Federal agencies are prohibited from
15 leasing buildings that have not earned EPA Energy
16 Star label. There's lots of different ideas there
17 to consider.

18 One of the ideas I liked is that they took
19 and they developed guiding principles to help
20 discuss the importance of this with major
21 decisionmakers. So it's an interesting question to
22 ask what might guiding principles for federal

1 construction safety look like. So I just put these
2 together as a straw man to sort of help people think
3 about. You might come up with different ones, but
4 to me the first one would be to say something that
5 truly sustainable design and construction also
6 prevents construction worker exposures, injuries and
7 fatalities, and if we're not doing that it's
8 probably not sustainable and the safety and health
9 community should perhaps spread that message.

10 Secondly, that the Federal Government has
11 an opportunity the lead by example, to make good
12 construction safety practice the standard practice;
13 and that safety and healthy construction work begins
14 with good design and procurement practices. I know
15 that my colleague Walter would add planning in there
16 as well.

17 You know, that safety-trained construction
18 workers deliver better safety performance;

19 That assigning safety responsibility using
20 management systems and best practices is essential
21 for construction safety excellence;

22 And that tracking safety and health

1 indicators, both leading indicators and lagging
2 indicators, at the project and site level is really
3 essential for construction safety and excellence.
4 So the idea of maybe coming up with guiding
5 principles that can be expanded at a later date to
6 sort of incorporate some of the details, but that
7 perhaps thinking along these lines might give us
8 some ideas for how to perhaps expand our safety
9 message and make safety more of a fundamental part
10 of federal construction. Something for the
11 committee to think about.

12 So just to summarize, there's a variety of
13 economy-related factors that could affect safety
14 performance on a given project. But you're going to
15 get a mix of that throughout the economy. Some
16 people are in boom conditions from the stimulus,
17 others still in a recession.

18 That the recession conditions can
19 contribute to underreporting of nonfatal workplace
20 injuries, which kind of complicates our efforts to
21 monitor performance. So we need to keep in mind
22 that it may be difficult to observe exactly what's

1 going on and maybe think about that further.

2 We really don't know the full extent of
3 stimulus work. There may be some jobs where hazards
4 are less well known. It would be good to think
5 about how we could be nimble and get the word out
6 once we get information about particular stimulus
7 jobs that need new precautions or how to disseminate
8 them out quickly.

9 And that the federal green construction
10 initiatives do give us a road map on how safety
11 could be integrated into sustainability and into
12 federal construction projects.

13 I included the references of a few studies
14 that I had there. So anyway, that completes my
15 presentation. Thanks.

16 ACTING CHAIRMAN MIGLIACCIO: Thank you,
17 Matt.

18 Do we have any questions, comments?

19 MS. BILHORN: I just want to thank Matt
20 because, of course, this was a huge topic of
21 conversation yesterday. I wish he had just said:
22 I'm answering that question tomorrow.

1 (Laughter.)

2 MR. GILLEN: I hope I maybe teed us up for
3 some discussion now at the close of the meeting, so
4 perhaps motions or discussion about all the great
5 presentations we've had this morning and maybe what
6 to do about them.

7 MR. BIERSNER: I have a copy of Mr.
8 Gillen's presentation Power Point which I would like
9 to admit to the previously identified docket as
10 Exhibit 0041.

11 ACTING CHAIRMAN MIGLIACCIO: Okay.

12 Thank you, Matt.

13 MR. RUSSELL: Thank you. In light of
14 Matt's comment and thanks to all the presentations
15 we've had today, I'd like to make a motion that
16 ACCOSH recommends that OSHA update this committee on
17 the principles for construction safety for federal
18 stimulus decisionmakers to ensure that workers'
19 safety is included as a fundamental objective in
20 every project.

21 Do you want me to repeat it?

22 ACTING CHAIRMAN MIGLIACCIO: Yes, would

1 you please repeat it?

2 MR. RUSSELL: Basically, what we're trying
3 to say is incorporate a lot of the things that went
4 on today and see where is OSHA's mind on this. So
5 I'll repeat it: ACCOSH recommends that OSHA update
6 this committee on the principles for construction
7 safety for federal stimulus decisionmakers to ensure
8 that worker safety is included as a fundamental
9 objective in every project considered under stimulus
10 spending.

11 ACTING CHAIRMAN MIGLIACCIO: Do we have a
12 second?

13 VOICE: Second.

14 ACTING CHAIRMAN MIGLIACCIO: Thank you.
15 Do you have that written down so I can give it to
16 Bob?

17 MR. RUSSELL: If you can read my scratch,
18 we'll work it out.

19 MR. BIERSNER: Could you see me after the
20 meeting?

21 MR. RUSSELL: Okay.

22 ACTING CHAIRMAN MIGLIACCIO: Any questions

1 or discussion? Susan?

2 MS. BILHORN: I appreciate your motion,
3 because I was sitting here after the second session
4 thinking about -- I'm playing the new card since
5 it's only my second session, which is only your
6 second as well. But I've been struggling with the
7 topics because I wasn't really sure how they relate
8 to the urgency of what's going on in OSHA and what
9 the outcomes are intended for the working
10 committees.

11 I'm not questioning whether there was a
12 logic in terms of what they were set up to do or the
13 necessity of addressing the subjects that are there
14 or the commitment of the individuals working. But
15 just knowing that the advisory committee is a number
16 of people who may only be there for two years and
17 that it's intended to be at the top level advice to
18 OSHA, it seems that it ought to be calibrated on a
19 regular basis and have outcomes that are going to be
20 clear and in a timely manner.

21 So I think your suggestion is really great
22 because I think we do need to maybe revisit what it

1 is we need to provide advice on, what would be
2 helpful to OSHA.

3 ACTING CHAIRMAN MIGLIACCIO: Tom.

4 MR. BRODERICK: Well, I agree with Susan.
5 Another thing that we had talked about with regard
6 to NIOSH is that we're in the middle of the NORA
7 project, which will be running for another eight
8 years parallel with the infrastructure growth. We
9 had talked about us creating a special work group to
10 enable us to keep a running relationship with the
11 NIOSH construction sector group.

12 The objective would be to make sure that
13 initiatives that are taken on by OSHA would be in
14 agreement or would be in sync with NIOSH research
15 and NIOSH research the practice. So this could be
16 two different motions or conceivably a part of what
17 the group that you're talking about would do or
18 could do would be to have the NIOSH recommendations
19 for the agenda and use that as some guidance
20 internally for a new work group to keep OSHA and
21 NIOSH on the same page.

22 It wouldn't be limited to NIOSH. It would

1 also be as we observe other research initiatives
2 that are unrelated to NIOSH or OSHA we could still
3 then bring them into the NORA umbrella.

4 ACTING CHAIRMAN MIGLIACCIO: Mike? Let
5 Mike confer with NIOSH on that. We're not sure that
6 we can make recommendations to NIOSH.

7 MR. BRODERICK: Well, yes. I would say if
8 we could the way to do it would be to do it using
9 this NORA work group that would be tasked with
10 working with, reciprocally with the NIOSH
11 construction initiative.

12 ACTING CHAIRMAN MIGLIACCIO: Mike?

13 MR. BUCHET: Go ahead.

14 MS. BILHORN: I was just going to ask --
15 now, when we have working groups, are the working
16 groups limited to ACCOSH membership? I mean, I know
17 that we have had public members that have been
18 observers, etcetera. But can they actively -- can
19 we actually say that whoever the co-chairs are or
20 whoever the active ACCOSH, can we actually say we
21 want to bring in and have actively involved?

22 ACTING CHAIRMAN MIGLIACCIO: Yes.

1 MS. BILHORN: So we actually could engage
2 them, and define those. That's another thing that
3 I'm a little confused with, is the structure of our
4 working groups, because a lot of us have attended a
5 lot of the meetings now that they aren't in
6 parallel. So the question is what is that core
7 structure. There's two chairs, but what is the
8 effective operating group, and how are we saying, we
9 need this resource to be on that working group for
10 an extended period of time for this result?

11 So if we go along that path, then I would
12 say we really define who are the people who have to
13 be on that working group and what are the results we
14 want to look for, in what time frame.

15 MR. BRODERICK: It's my belief that if we
16 were to do this, just as the NIOSH NORA group has
17 been working with the directorate thus far,
18 reciprocity would seem to be a natural. And I know
19 that with the asphalt fume initiative there were
20 ACCOSH members that were involved with that
21 initiative as well, that that family that got
22 together represented both agencies as well; and it

1 probably made it a little easier for the NORA team
2 to get data and work with some degree or
3 reciprocity.

4 ACTING CHAIRMAN MIGLIACCIO: Steve.

5 MR. HAWKINS: I think Susan's question is
6 not just directed at what Tom is speaking of, but at
7 all the work groups in general. I have a question
8 about it as well. It seems like our work groups are
9 right on the edge of starting to make progress, but
10 the structure as it's stated right now is just a
11 chair -- or two co-chairs. We have two co-chairs of
12 each group.

13 Is there any prohibition against those two
14 chairs at the next meeting naming members both from
15 this body as well as from the general public, the
16 greater public at large, having those people listed
17 by name as members, by name, by position, of those
18 work groups? So by naming them, these people could
19 be given tasks to work on before the next group
20 meeting, and they could be active members. They
21 could put it on their resume: I'm a member of the
22 ROPS subcommittee to ACCOSH.

1 Because right now we just have those
2 people by name. Would there be value of naming
3 people by name, like Rob from the National Home
4 Builders for the fall protection group, so that the
5 work groups are not just another meeting of all the
6 ACCOSH members, but they're people by name that have
7 responsibilities and have agreed to participate?
8 I'm just wondering, is there a prohibition against
9 the co-chairs, like Tom and myself for residential,
10 naming people by name and asking them to participate
11 as a member of that work group?

12 ACTING CHAIRMAN MIGLIACCIO: First of all,
13 the minutes that come from the work groups that we
14 put in the record do have -- or should -- in fact,
15 every one we've had has the people's names.

16 MR. HAWKINS: That attends.

17 ACTING CHAIRMAN MIGLIACCIO: Right, that
18 attends. You can't make somebody be on a work
19 group. They have to actually volunteer to be on a
20 work group, just like the co-chairs.

21 MR. RUSSELL: That's not what he's asking.
22 I might be able to help, Frank. The work groups by

1 design -- the only issue with the work groups is
2 that the chair and the co-chair have to be ACCOSH
3 members. Outside of that, anyone can participate in
4 the work group. For instance, in the ROPS work
5 group we have the Association of Equipment
6 Manufacturers, who is actually a major partner in
7 the ROPS work group, and their input is valued as
8 well as equipment, individual equipment
9 manufacturers.

10 So they all actually come in and out of
11 the work group. They participate at a very high
12 level, even though they're not members of ACCOSH.
13 So there's no limitation as to who participates in a
14 work group or who is a member of work group or who
15 might be invited to be a part of a work group as it
16 relates to ACCOSH.

17 MR. HAWKINS: But what I'm asking is,
18 shouldn't those people be listed as members of that
19 work group, not just who happens by, but who is
20 actively participating, because there is no list.
21 If someone asked you or me -- if someone asked me,
22 who are the members of your work group, it's just

1 whoever showed up on a given day. It seems like
2 they need to be listed by name. Can they be listed
3 by name, that's my question.

4 MR. RUSSELL: What I do is I actually
5 maintain an email list and, for instance, the
6 equipment manufacturers are on the email list, and
7 anything we do on the work group they actually get
8 copies of it, being a part of the email list. Now,
9 unfortunately the email list doesn't get reported at
10 every meeting, but their name is actually on the
11 email list so that they are part of the committee.

12 MR. ZARLETTI: I don't think we're hitting
13 the point here yet. First of all, what he's asking
14 for --

15 MR. RUSSELL: No --

16 MR. ZARLETTI: I'm sorry?

17 ACTING CHAIRMAN MIGLIACCIO: Go ahead,
18 Bob.

19 MR. BIERSNER: They can participate as
20 public participants, but if they're not members of
21 ACCOSH they can't be actual members of the working
22 group.

1 MR. ZARLETTI: Actual members of what,
2 sir?

3 MR. BIERSNER: Of the working group. But
4 they're free to participate and contribute.

5 MR. ZARLETTI: All right.

6 MR. BUCHET: The members of this committee
7 are appointed by the Secretary of Labor. Membership
8 is by appointment only. It is designed to maintain
9 diversity. It is staggered to maintain continuity.
10 The only member on ACCOSH that has an indefinite
11 term is the selectee or the designee from CBC.

12 MR. ZARLETTI: I think our point is that
13 whoever assigns themselves --

14 MR. BUCHET: May I continue? The work
15 groups by design are informal. If they become
16 formal, they then fall under FACA and we would have
17 to announce every meeting in the Federal Register.
18 We would end up probably doing something about
19 compensating travel, etcetera, etcetera.

20 The idea was to open it to the public. As
21 Emmett said and as we said earlier in this meeting,
22 email lists, contact lists, sign-up sheets, is how

1 the membership of a work group or the participation
2 of a work group has been maintained for years. It
3 has worked very well. It is up to the work group
4 co-chairs to invite in if they're interested certain
5 people and points of view.

6 The agency is not going to go out there
7 and appoint two people from NIOSH and one people
8 from here and one people from there. We're limited
9 in what we're allowed to do by the regulations that
10 tell us five employers, five employees, two public,
11 one designee CDC, and one shall be appointed as
12 chair.

13 I understand some frustration, but the
14 people before you have worked this system quite
15 eloquently and produced incredible amounts of work
16 and good work product. Not everybody can be there
17 every day.

18 ACTING CHAIRMAN MIGLIACCIO: They can be
19 participants. They just can't be listed as a
20 member. Does everybody understand that? Tom?

21 MR. SHANAHAN: So Frank, I think what we
22 discussed at our last meeting of the continuity of

1 the chairs then becomes really important, so that
2 you have somebody who's a two-year appointee and
3 somebody who's -- so it's staggered, in other words,
4 so you can have the overlap, because it's not like
5 ANSI, where you belong to ANSI and then you're on
6 actually -- like I'm on a bunch of the ANSI
7 committees.

8 MR. RUSSELL: That's what he's saying. It
9 isn't like that.

10 MR. SHANAHAN: Yes, it doesn't work like
11 that.

12 ACTING CHAIRMAN MIGLIACCIO: Susan.

13 MS. BILHORN: Can I then -- I think I was
14 hearing a number of things here, including my own
15 voice. Let me -- I think there was one suggestion
16 here that we take a step back from the existing work
17 groups and say, what is it we can best -- what
18 should we be focused on at this point, which may
19 include looking at some suggestions, like some of
20 the things that Matt had in what are issues we could
21 be addressing for the stimulus, around the stimulus
22 package.

1 So that was what I heard as one
2 suggestion, that we actually take a look at the
3 working groups and step back and say, what can we
4 actually help; and that that should be done with
5 OSHA, to say how should we deliver appropriate
6 advice in a timely manner, was one.

7 The second one was to clearly define the
8 goals and the target outcomes and the schedule for
9 delivering some recommendations and outcomes within
10 each work group that we decide we want to continue.
11 It couldn't be -- as I say, there are a number of
12 things that are ongoing. I'm not trying to say any
13 one of these working groups I would point to that is
14 ineffective.

15 I'm just saying that I think we ought to
16 revisit those work groups now and on a regular basis
17 as we see priorities shifting or concerns evolving.
18 So I think there were two suggestions in there that,
19 even though we say now we have clarity and I
20 appreciate that on how the working groups are
21 structured and the formal participation -- that's
22 good. But now -- and I would say we could still

1 revisit whether there are members of ACCOSH that
2 might want to devote time to one committee versus be
3 on all, versus sit through whatever ones they want
4 to come in on.

5 So it may be that we do say there's a co-
6 chair, two co-chairs, and then there is maybe three
7 or four others that say: Hey, I am going to invest
8 myself in this, as opposed to sit in on several. So
9 we might do that, because I know we can't have
10 outsiders on that and I appreciate that.

11 So I think there's maybe two or three
12 suggestions here.

13 MR. BUCHET: I'm puzzled by the idea of
14 not being able to have outsiders. The only --

15 MS. BILHORN: I understand your point. I
16 abbreviated in my response. You can have outsiders
17 in the meeting. You just can't have formal. I
18 understand that.

19 MR. BUCHET: The public is encouraged to
20 participate. We recognize your expertise and
21 appreciate it, but there are also contractors that
22 come and walk in off the street and say: Hi, I just

1 --

2 MS. BILHORN: I appreciate that very much.
3 I was just making the point that maybe we ought to -
4 - that maybe the ACCOSH members might want to say:
5 Hey, instead of maybe trying to go to all of them
6 and just sitting in and listening, maybe I'm going
7 to devote myself and my energy to specific work
8 groups. And they could sit in on all of them.
9 They're welcome to do any one. It's just that a
10 couple of us might want to say, for effect --

11 MR. BUCHET: Right. The co-chairs of the
12 work group are allowed to say: I'm giving you a
13 work assignment; can you get it done, to anybody.

14 ACTING CHAIRMAN MIGLIACCIO: To anybody.

15 MR. BUCHET: To anybody.

16 ACTING CHAIRMAN MIGLIACCIO: That's
17 correct.

18 MR. BUCHET: Now, if they walk off and
19 leave you cold, you're not going to give them a work
20 assignment again. But you have a living example of
21 how well that works here, because I believe at one
22 point your Acting Chairman, Mr. Migliaccio, had a

1 work group in which your colleague Mr. Russell was a
2 participant from the public, who got assigned a
3 great deal of work, and did it so well he ended up
4 on the committee.

5 MR. RUSSELL: Let me interrupt --

6 MR. BRODERICK: Let me interrupt.

7 MR. ZARLETTI: We have a Point of order.

8 MR. BRODERICK: Before we lose quorum,
9 could we vote --

10 ACTING CHAIRMAN MIGLIACCIO: We're still
11 in the discussion, and as long as it's discussion we
12 can't vote.

13 MR. GILLEN: That's what I was going to
14 bring up, is that this is a useful discussion but
15 it's not urgent, and we're losing our quorum, and
16 the basic issue that came up was about the stimulus
17 and we're losing all ability to say anything on
18 that. So I suggest that we stop this discussion and
19 continue it at the next meeting and re-start the
20 discussion of the stimulus, if the chair agrees.

21 ACTING CHAIRMAN MIGLIACCIO: I'll restate
22 the motion if that's okay. ACCOSH recommend that

1 OSHA update this committee on the principles for
2 construction safety for federal stimulus
3 decisionmakers, to ensure that worker safety is
4 included as a fundamental objective of every
5 stimulus-funded project.

6 MR. RUSSELL: That's it.

7 MS. BILHORN: So one question. Does that
8 mean that we would only for this period of time,
9 only look at stimulus stuff for the next period of
10 time?

11 MR. RUSSELL: No, that's one of many
12 different things that we would work on. But it
13 wouldn't get left out.

14 MS. BILHORN: But it won't get left out.
15 Got it.

16 I second the motion.

17 ACTING CHAIRMAN MIGLIACCIO: The motion
18 was made and it was seconded. More discussion?

19 (No response.)

20 ACTING CHAIRMAN MIGLIACCIO: All in favor
21 say aye.

22 (Chorus of ayes.)

1 ACTING CHAIRMAN MIGLIACCIO: Opposed, say
2 the same.

3 (No response.)

4 MR. BUCHET: We have one public commenter.

5 ACTING CHAIRMAN MIGLIACCIO: We have one
6 public commenter, Mike Roussert.

7 MR. BUCHET: If you could sit for a brief
8 minute -- you're killing the quorum.

9 PUBLIC COMMENT

10 MR. ROUSSERT: Mr. Chairman, thank you and
11 the committee for a chance to make these comments.
12 Again, my name is Mike Roussert. I'm with Corporate
13 Safety Services, a consulting company in Denver. My
14 comments concern the discussion late yesterday
15 concerning the Susan Harwood grant program.

16 I've worked extensively with several
17 organizations on these grants and at the moment I
18 believe there is a lot of misinformation, confusion,
19 concerning the program. So the basis of my comments
20 would be to simply ask this committee at some point
21 to discuss, possibly request from OSHA some detailed
22 guidance and information on the Susan Harwood grant

1 program.

2 As an example, yesterday the discussion
3 was the material from previous grants, that I think
4 the comment was maybe it's archived, sitting on a
5 shelf at the OTI in Chicago. While I don't have any
6 reason to disagree with that, I'm not sure that most
7 people understand that when that 12-month grant
8 period is over the organization that develops that
9 material has been allowed to copyright it, meaning
10 that while the material is sitting on the shelf it's
11 not going to be available to the public because it
12 has become proprietary information.

13 So there's probably plenty of it sitting
14 there, but that doesn't mean that we're going to
15 have access to it.

16 MR. BRODERICK: Well, my point was we
17 won't know that unless we find it and ask the
18 producers of it. A good example would be some years
19 ago the National Constructors Association had a
20 series of construction videos. Help me. Somebody
21 in the room must remember. Frank, you were
22 involved. They were supervisor-directed at Bechtel

1 and one of the other big NCA contractors hosted the
2 filming on site.

3 WEST, the WEST program. Work, Environment
4 -- I'm not sure.

5 MR. ROUSSERT: It's gathering dust.

6 MR. BRODERICK: But the folks who did it
7 have moved on. The NCA is no longer around.
8 Individuals who did work with it, like Noel Bork,
9 who was head of NCA -- my thought was that we could
10 get a hold of Noah. He was also involved with the
11 program with owners, the Construction Industry
12 Institute.

13 But anyway, they I think would really
14 appreciate having that updated and throw some light
15 on it. That was a good example. Any of the ones
16 that we have done, I probably would not want to give
17 them away now because we are still realizing some
18 revenue. But I'm just saying, I think there
19 probably will be a lot of them that we could go to
20 the organization that produced them, and if that
21 organization is still using them and doesn't want to
22 do it, then fine, move on.

1 MR. MIGLIACCIO: We're about to lose our
2 quorum, Tom.

3 MR. BRODERICK: Okay.

4 ACTING CHAIRMAN MIGLIACCIO: We're going
5 to lose it. One more person and we're out of a
6 quorum. But we will take what you have -- Tom has
7 to leave.

8 MR. ROUSSERT: My only other comment would
9 be as part of that, to find out exactly who can be
10 trained with the grant. I think the comments
11 yesterday were about the individuals that congregate
12 in the parking lot at Lowe's or Home Depot. The
13 organization I'm currently working with on a grant,
14 they were directed they could only train current
15 employees, that if they were unemployed, if they
16 were in that parking lot at Lowe's, they were no
17 longer employees, therefore they were not covered
18 under the auspices of the OSHA Act and none of those
19 funds could be used for training.

20 So it makes a big difference. With
21 today's economy, if we've got a lot of unemployed
22 laborers out there that have been laid off, they do

1 intend to come back to work. But if we can't use
2 the funds to do any training except for our current
3 employees, we've lost a lot of the basis for who we
4 can train.

5 MR. BRODERICK: The man has some good
6 points. I would feel comfortable withdrawing that
7 right now, tabling it, and between now and next time
8 we could have a chat with Hank Payne and some of the
9 people that you mentioned. It could be done
10 collaboratively, not in any kind of a pull one off
11 with OTI. And we would also be able to check with
12 some of the developers and see if there is any
13 interest, and we can revisit that and make the
14 motion again next time, only be better prepared with
15 answers to those questions.

16 ACTING CHAIRMAN MIGLIACCIO: Tom?

17 MR. SHANAHAN: Just real quick. We
18 receive grants and my understanding is that,
19 although you're right, after a year we have the
20 copyright on them, they're still available for free
21 if anybody wants to go to OTI. And we train anybody
22 who wants it. The grants aren't limited to anybody.

1 MR. ROUSSERT: You may train them, but as
2 far as I've been told you can't go to the OTI. If I
3 wanted to as Corporate Safety Services, I could not
4 request any of that material.

5 MR. SHANAHAN: Yes, you can. Yes, I think
6 you can.

7 ACTING CHAIRMAN MIGLIACCIO: Thank you
8 very much. What we'll do is we'll invite Hank Payne
9 or somebody from his organization here face to face.
10 He has to come in for an OTI meeting anyway. We'll
11 bring him in in front of the whole committee here
12 and let him explain it. Thank you.

13 MR. GILLEN: Can I make a motion to
14 adjourn?

15 ACTING CHAIRMAN MIGLIACCIO: Yes. With no
16 other business, I have a motion to adjourn.

17 VOICE: Second.

18 (Chorus of ayes.)

19 (Whereupon, at 12:52 p.m., the meeting was
20 adjourned.)

21

22