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PANEL PARTICIPANTS:

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	JEFF TITTEL, Sierra Club - NJ Chapter

IRENE: Good morning everyone, thanks for coming. We're going to talk today about public participation and then Prescriptive versus Performance Remediation; the process within DEP, trying to find ways to get things through the system so we're not acting as an impediment to cleanups.

About the white papers: is to talk about the schools of thought. Let me use remedy selection as an example: the history; talk about those different schools of thought. One being everything's hunky-dory, fine, status quo, there doesn't need to be any changes to have remedy selections occurring.

Another being there needs to be more authority in the Department's hands then basically lay out what the Department's position is and what we would like to see, send that out, and ask people what they would like to have included in terms of their position. So flushing out the different opinions of all the people that are in the stakeholder group; in general most people think this and in general the people think this so that we have that out there.

And then, if we can say here are some legislative recommendations. Something along that line to get to the very specific legislative language because that's what we stated we would do.

We went back and forth on whether we focused just on legislative stuff in the very first session versus regulatory policy. We had a lot of discussion in these sessions about potential regulatory policy changes, things that we can implement now without legislative change. So I think I want to flush those out. We don't necessarily have to send that to Senator Smith's Committee. But I think that in order to accurately reflect the discussions that we've had at the table, I don't want to leave those off.

Then we'll get something out. I think there's like five or six papers that we're going to try to get done. And, of course, it's totally acceptable for you to share them with whoever you want to get additional input from, you know, co-workers, peers, other groups that you're involved in.

We also started holding internal stakeholder sessions with staff. Definitely the people that are on the frontline are the people that have the best ideas on what some of the problems are as well as what some of the potential solutions.

I hosted a half day session with staff two weeks ago, about the prescriptive performance issue and said if you could do anything you wanted to change the site remediation program, what would it be.

To my surprise over half the people said a Licensed Site Professional program is necessary. I think that they're pretty much drowning and it was an example of them expressing their drowningness. But coupled with other things, coupled with very strong tech regs, you know, that clearly spell out for everyone what they need to do. I don't think that they were 100 percent behind the Massachusetts Licensed Site Professional Program, but I don't think everybody knows exactly what the different programs are that are out there.

We had some staff that said, If we're doing LSP, I don't want to sign-off on NFA, I don't want to sign-off on anybody else's work, so it should be like Massachusetts where the Licensed Site Professional signs off on it. Other staffs were of the mind that it could be more like the Cleanup Start Program where the work is done by licensed consultants and we do audits and approvals and sign the NFAs.

So it was just interesting. In the second half, when we talk about prescriptive and performance, I'm going to ask Len and Tom to talk about their sessions. Because Len, Tom and Wayne Horowitz all hosted sessions this week.

So we've got a fair number of people in the room from all levels of staff, all the different units giving their ideas and recommendations and it mirrored a lot of the discussion that we had here; similar concerns and similar recommendations on both sides.

Discussion of Public Participation

IRENE: That being said our first subject is public participation. The Commissioner is interested. In addition to the public notification rules that will be coming out in August, she is interested in exploring expanded public participation at either certain sites or certain phases of a cleanup. I think most notably again, the remedy selection stage, and more specifically in residential and educational scenarios; potentially also in EJ situations. She'd like to have us nearer what other programs do in terms of having public hearings. Similar to people having the public hearings on permits or final permits, use a public hearing to get input from the community when we're at the stage of remedy selection.

So that being said, I'm just going to open it up to the floor to get people's thoughts on, how we can get input from the community. But I know one of the concerns people have is, will that again bog things down get groups that are not part of the community involved with trying to change what a remedy is even though it's not their backyard?

JEFF: If you have a public process, it needs to start early on. Because if you come in just at the end it's not going to have any meaning because you're not going to change anything.

Even if you started early on with education or outreach, you know, what role will the public actually have? Just to have a meeting and say this is what we're going to do or this is what DEP

has agreed to without any input from the public is not -- without just giving them information, will actually create more frustration and anger within the community. So you need to actually allow them to have a certain role and a certain level of input, otherwise it's just for show and it's not going to do anything.

The second piece that is missing which is not necessarily a DEP issue, but there's also real disconnect between the cleanup of these sites and what actually happens to these sites. You know, meaning most citizens have very little input on the development plans or things of that nature and how does this work with that.

JANE: Building on what Jeff said, the public process needs to start during the remedial investigation because a lot of times, neighbors of a site, people that live near the site can have substantial information about activities at the site. I know one of the frustrations that my group found during their remedial investigation at a Superfund site in our town was that the initial investigation didn't go far enough. So a lot of time was spent doing a very narrow scope of remedial investigation when the more they looked, the more they found. If there'd been more extensive design in the first place, that could have been avoided, time wasted.

Public participation needs to happen early on in the investigation phase. The public should definitely be able to weigh-in on remedy alternative selections the way it happens in the Superfund process. That's a good model for public participation. And then again at the final decision. Like at the kind of record of decision kind of time that again there'd be a public hearing so people are clear on what the remedy is going to be.

A process that just gives notification posting of notices of activities or permit applications is not really sufficient if there isn't a way for the public to actually weigh-in and participate in what the ultimate remedy selection is.

IRENE: With the number of cases and the variety of cases we have, if we do that, we'd have to carve out some cases: when you're pulling an underground storage tank in the middle of an industrial facility, does anybody really know or care? In that 10-acre plot versus developing or cleaning up a site in the middle of the city: I don't think we could do it for every single case. How do you carve out when you do it versus when you say it's overkill and the public notification rule is enough? We certainly aren't going to do it for homeowner tanks.

JEFF: It's the larger complex sites where there's going to be large-scale development is where most people are concerned.

IRENE: I think the development is key, development sites are key. And the big, "Tier 1" even though we don't use that language here, the ones that are EPA, CERCLA, RCRA, Heavy Duty --

JEFF: Level C and Level D.

BUDDY: The challenge is to find that right balance. There are sites that will benefit from having public participation. But there are sites that probably won't. In sites that are simple, small, it will only hinder the progress, have them take much longer. So the question is how do we decide which sites need it and would benefit from it and which sites wouldn't.

I have a lot of UST sites, and I find that often we're stuck in the middle between being considered a big site that would require a lot of attention and effort, and being on the smaller sites like the homeowners' cases, and UST sites are somewhere in the middle. And I'm concerned that sometimes when we draft up the regulations the thought is the worst-case scenario, big site

and not UST sites. That we get stuck doing things that don't seem to make sense on those projects, but might on the big site.

So maybe there could be a tier approach and public participation. Sites get different levels of consideration.

IRENE: Yes. And maybe it's not necessarily the category of site cleanup like us versus development but what it's impacting. You know, if it's impacting neighborhood houses, if it's impacting schools, you know, that type of --

JEFF: How about a citizen's right, to ask for it.

IRENE: No. That's a petition process. A petition process is good.

JANE: The way it's done for air permits there's notice of an air permit. If you request a public hearing you can get one.

JORGE: Doesn't the new public participation process embrace that?

JUDY: Yes. We have conditions that ask the responsible party to identify the sensitive populations. So if it's within 200 feet of a school or a playground or a neighborhood, Tier 1 wellheads, surface water bodies, EJ Neighborhood, you know, a group that's working with Maria's office, people can petition.

IRENE: But I think the difference is they can petition for a meeting or enhanced notification and I think this would be petitioning for actually like a public hearing with additional input.

ANDREW: I think the type of public participation that provides information is obviously very worthwhile, and that does happen. I'm not sure modeling after other programs is the best, particularly when it comes to public hearings.

I'll use the Waterfront Development CAFRA context. Very frequently there are public hearings where no one shows up. There are letters that have been submitted, but no one comes in. And of the ones that have been submitted, it's truly exceptional that information that's relevant to the decision making is provided.

The public hearing process doesn't provide that level of productivity that the submission of information equally provides it. I would be cautious in how you do the public hearing process. The reason why I add that is, I mean, in the CAFRA Waterfront Development context, these hearings take up a lot of staff time.

If there's a lot of information submitted or a request for public hearing that says, we'd like a hearing because we'd like to discuss the following types of things that are relevant to this process, that's something to be taken into consideration. Simply a petition saying, "We'd like a public hearing," doesn't distinguish between something that's going to be productive and something that's going to be nonproductive.

JORGE: I don't know if a hearing is really what you're looking for, so much as an informational session. We used to do both in the Superfund process. The informational sessions were opportunities for people to sit down with DEP staff or responsible party staff and discuss specific issues. It was somewhat more time consumptive than the meeting process. It got to the point where we thought that there was a better exchange of information, people who were reluctant to speak their mind in a meeting were not necessarily reluctant to speak their mind in a sit-down conversational atmosphere. I would just commend the thought that a formal hearing process is not necessarily where you want to be in this overall process.

ANA: And I want to support the idea for early public participation in the site investigation and remedial alternatives process, especially in environmental justice communities, low-income, minority communities. Often urban communities where either it's a large select CERCLA site or it's residential redevelopment that's occurring on former industrial property, that's really important. Whether it's a hearing or meetings that bring people out and really share the information about the contamination on this site with the members of the community, what is the problem? What are the different alternatives to clean it up? And especially in environmental justice communities where language is a barrier, written comments are very challenging.

It's very difficult to get people to submit formal written comments. It's much easier for them to sit in on a meeting in which they will feel more comfortable with an interpreter available. But people just feel more comfortable in a meeting setting. But I think it is important to do it early on.

So often people are very reasonable. They look at the risks. If they feel comfortable and understand the types of contamination that are on the property and the alternatives, they give useful feedback. You'd be surprised how many people would be willing to come out if that information was available to them.

DONNA: I really like the idea of the informational setting as opposed to a full meeting because the public will feel generally better if we can have a face-to-face question-and-answer period. I think they will express their concerns in a more intimate setting. That's a good way to do it because they feel like they can actually sit down and talk face to face. They may not get the answer they're looking for, but at least they feel they've had some input.

IRENE: We have done that at the Martin Luther King School and W.R. Grace?

JUDY: We did it at the American Standard site in Hamilton.

ED: It's become common practice now to hold an information session and then have a public meeting, and that way you satisfy both everyone.

JUDY: And it also helps us understand what the issues are so we can articulate for the rest of the group. Because chances are, people that came in early for an information session represent the same issues that other people are concerned about.

DONNA: It also helps on the education side because a lot of these folks don't really understand the different remedies. And they need to be educated especially if they're going to make comments. They need to understand the processes involved.

JEFF: But there has to be a formal way to get those comments on the record. DOT has informational hearings. They'll have DOT staff around to talk about a highway project and they'll have charts and maps and they'll talk to you one on one. It doesn't matter what you say to them, there's no record, there's no interaction, there's no outcome, they just do whatever they want.

There are different ways you can do it. The Army Corps has one where people have meetings and it's part of the response document. Meaning, they'll sit down with people to answer questions. In the Army Corps situations, they'll have meetings where people can actually stand up in front of a camera or transcriber and put it right on the record to raise their concerns. This way their comments are recorded in the response document.

DONNA: Or maybe you could have a form, after you sit down and have a one-on-one, This way they can meet with the staff and then write their concerns down and mail them in.

JEFF: And others will do both where you have an informational meeting up front and then you'll have a public hearing later. The informational meeting is at the beginning of the process so people can understand the different alternatives before the more formal meeting.

ED: I run the public part of the program where I hold public meetings on remedy selection and create a response and summary. We would hold information sessions. The criticism we got from the information session was other people didn't hear everyone else's concerns, and there was no exchange amongst the concerned citizens. Then the reason we had the information sessions for the one-on-one is there are some people who don't want to stand up at a public and ask their question. They feel intimidated by that situation, but in a one-on-one circumstance they're fine.

We've now morphed it into having an information session before the public meeting. This allows people to come in and if they just have one question they can ask one on one. They get their question answered, they're out. Other people learn what's going on during the information session and then ask very poignant questions during the public meeting. And I think we may have struck a balance where it might be the normal thing to do to accommodate everyone's concerns on format and gets everyone's questions answered. The remedy selection public meeting is recorded and a response and a summary is produced as to those comments, but only at the remedy selection public meeting.

The other ones, the kickoff meetings for studies or the kickoff meetings for construction, are not recorded.

TOM: There's a public comment period where letters can come in during that process. Thirty days can be extended to 60 days. Those are included in the responsiveness summary. Within Superfund, based on the public input, there's a possibility they can change the remedy. Public meetings and the comments that are submitted are all factored in. It's not that EPA just responds to them, they consider them when they select the final alternative.

JEFF: The vast majority of cases have no public participation at all. And you do maintain a list of the sites that's updated periodically which contains the basic information about the sites in terms of the nature and extent of the contamination. The status on cases, where they are in the process in terms of the milestone and the timelines, is not readily available. You do have DataMiner, which is not very helpful in terms of site remediation. But if you could host the basic information in terms of the timelines, the milestones, where you are in the process, who the contacts are, nature and extent and areas of concern concerning the site, that would probably inform the interested public enough to where you would generate the right amount of interest because people know what to be aware of.

TOM M: In Jersey City, the group I'm representing has a very interested set of people that are always looking for information. And they find out a lot of times afterwards that a decision has been made and even though they have been trying to keep themselves aware, they feel blind-sided because that information was not made available. So if there was some way to participate where you are in the process and points that they could give their input, that would go a long way in making this a cooperative process.

IRENE: A lot of the information that you're talking about is going to be required under the public notification rule.

TOM M.: But will this be available on the web or a web site?

JUDY: We've been talking about making that information available on the web in some fashion because it's not going to do any good for us to have it and not have it available.

IRENE: It's important for it to be someplace other than the web, whether it be at the municipal building or in the local library or something along those lines because not a lot of people like going to the web.

JEFF: Some people do not have the access or ability to get online.

TOM M.: It's the source for reporters, too.

IRENE: Getting it up on the web is definitely a goal. It's going to be a longer-term goal for technology and financial reasons. It has to be on the web, but it also has to be locally available for individuals.

JUDY: We're working to start reaching out to municipalities and helping municipal government organization understand the value of having links to our information, how valuable it is for them to understand what's going on with those sites. We're doing mayoral visits to get people to recognize that if they can have that information locally, they can help move this forward. So that's part of it, also.

TOM M.: But I mean, do you even have any access? If I called somebody on the phone and said, What's the status of this case?

JUDY: 984-3081.

TOM M.: Right.

JUDY: That's our job is to help you find --

IRENE: I don't have it readily available to me. I'd have to pick up the phone and call a case manager.

IRENE: The goal down the road is as we gather this information through the public notification process, to have that readily available to anybody in the Department, outside the Department, et cetera. But it's going to be a longer-term project. It's not like January 1st this is all going to be up on the web.

JORGE: Ed you probably have more experience in public relations and public participation's than anybody. What are some of the pitfalls, that you've experienced, some of the problems, some of the things that we should be concerned about as we go forward.

ED: Jane mentioned it earlier; when we have underestimated public interest, and the first time we show up is at the remedy selection stage, we often get set back a matter of months by getting comments that require us to redo some of the work. And so it is a good idea to assess the situation early, find out whether you have a group that is interested and get them involved early in the process as to what's going to happen.

To some extent, my experiences are going to be skewed, because when it gets to publicly funded, there is -- I'm the last guy in line. There's nobody else that wants to do this work. So there is no end use in mind when I'm looking at a site. My biggest question is, Do you want an asphalt cap or a soil cap? We're not talking about a development on top of it.

But it is basically the time; we do a remedial investigation and then we go into a feasibility study and that takes time. And we are unlike a private party whose engineer is in essence doing a feasibility study; it's happening real time on their desk as things are moving and probably occurs within a two-week period as they look at what needs to be done and kind of figuring out and choosing it. I have to develop alternatives and carry that analysis on each alternative to the end,

so that when I go to the public I present a fully evaluated remedy, but I'm presenting like three to five of them instead of just one that is chosen by the responsible party. So it adds time to the equation.

IRENE: Back Tom, to your point about information: One of the other things that will be happening in the notification rule was the signage and the flyers that go out, so that it'll give contact information so that people have someone to go to directly, you know, to get information. So that would be good, too.

JOHN: The potential is there for the public participation/public hearing process to take on a life of its own. It's somewhat restricted due to a very good written assessment where there's a priority. In the future you need to commit more staff time, and money to an informational process or a public hearing process, depending on how that shakes out. Where's the judge and jury and what happens at the end of the day and what's the selection?

You can gather the information and the input from the public, but it's my money that I'm going to spend to do the cleanup. My professionals are saying we're good with this so then did we accomplish anything or not accomplish anything? We take a situation which needs remediation and cleanup, and you can add substantially to the time and then that's a disservice to the public when we already have sites now that aren't moving forward.

So I think there's a very fine line that has to be looked at because you went and filed a notification and then there's a public participation process for sites that don't really meet the risk assessment criteria. Through the public notification, people are going to try to avail themselves to a process perhaps that really doesn't apply to them, which creates a whole other wrestling match.

STEWART: I'm thinking about Massachusetts and California where I have two large active sites. In both situations we actively engage the citizenry. It's not like this discussion at all. Those cleanups are almost driven by the citizenry and the agency stands back. In my Massachusetts program, the LSP says, "We haven't seen the citizens in a while and we should go tell them what we've been doing." It's that whole professional responsibility, call it CYA, that the LSP does. And we get those through another public hearing or public meeting. It's recorded, minutes are taken. The LSP can show that to the agency, and the agency sees that we're being responsive and we move forward.

IRENE: But it's not mandated, it just happens?

STEWART: No, Tier 1 sites it's mandated. But in a lot of cases it just happens. The other thing, in California citizen groups can get grants to hire their own consultants, which is an interesting -- an interesting thing. Or if it's a volunteer program, the responsible party is asked to contribute to the citizen groups consultant.

To some people on my side of this room that my sound scary. But actually what happens is, the citizens are agitated. So many times you go to a meeting and it's highly technical. Citizens don't understand anything you're talking about. You sound like basically suits talking down to people. And sometimes it really helps to have their own consultant because they'll come to the meeting pre-educated knowing that it's simply not feasible to dig up the whole site. It's simply not feasible to get the site cleaned up in a year.

So those issues are presettled when the citizens get some technical help. And then we're actually talking about issues that are solvable when you're at a public meeting. It can also bog down the process sometimes.

TOM M.: Wouldn't you say that creates a more honest process, though?

STEWART: Absolutely. What I have found is when we're quickly engaged with the communities on these major sites the community sees it as an honest process. And actually my experience is when that happens cleanups go faster and the community understands what's in the realm of the possible and what isn't. And we tailor our cleanup to some of those things.

I've got a cleanup in a neighborhood in California and we have to physically go into the streets to do cleanup work. We're trying to figure out how to minimize the number of time we have to go into those streets because we know the community will be very upset if we just keep coming back to do little things. So we're trying to really focus ourselves.

JORGE: If a counterpart in a consulting community is established for the public, the qualifications of the person doing the review must be the same as the qualifications of the person doing -- performing the work.

TOM M.: Hopefully.

JORGE: (B), (B), (B), that that response be considered a work product. And that work product is reviewable just like any work product is reviewable in maintaining that license. So if in fact a consultant is hired by the community that that person, that consultant produces a work product that is subject to review by the Department. And any consequence that would be fall me on this side of the table or me on the other side of the table, I must accept it.

STEWART: My experience in California and Massachusetts is that it is part of the public record. The consultant isn't better because he's either -- if they got a grant, he typically is the kind of consultant who may not be actually working on these kinds of sites. But, again, they get the report explained to them.

Sometimes I see citizen boards grab an environmental consultant from the neighborhood. So I'll sit across from somebody who's day job is this kind of thing. And at least they read the report, make sense of it, tell the citizens what's possible, what isn't possible, whether we're basically doing a good job or not. And it can be very, very helpful, but these are our major sites.

JORGE: What kind of cost and time are associated and who pays for that review process?

STEWART: California has a voluntary program. The responsible party will have to pay the cost of the consultant. I think in California there are also grants to EJ communities. They're very modest; five, ten or fifteen thousand dollars. But that may be all you need to have a qualified consultant read through the reports and make a list of questions for you.

That facilitates things because technical concepts are pre-explained. And when you go to actual public hearing you're really getting down to the nuts and bolts. You don't spend that first hour trying to figure out what the hell are these guys talking about.

DONNA: I think it sounds like a little bit of time and money invested in the beginning of the process.

STEWART: Right.

DONNA: Overall it's improved the timeliness and the cost of the project.

STEWART: And I've seen projects basically blow up because of a lack of public participation.

DONNA: It takes away the unknown. Have you seen that it had increased your cost for the cleanup substantially?

STEWART: It does increase the cost from the perspective that you're spending a lot of time and energy on this public participation process, but if the project were to, quote, blow up, and the public is all over it and you've got citizen suits and you can't get anywhere, that's much more costly. So typically it's a "pay me now, pay me later" situation.

I've had major projects where we've announced a public hearing, we publish it, we put the sign on the site, go there, got the Power Point, and one person shows up. You do it again, same thing happens, and you stop doing it. You leave the sign up with the phone number, and if somebody calls you deal with it. That's the flip side.

And sometimes that could be a major site. You know, the classic thing is, if it's an industrial site in an industrial neighborhood, or even a commercial site in a major commercial area, sometimes even a major program will behave that way. Maryland has requirements under their Brownfield statutes for public participation. And we went through the area, we published it like crazy and nobody showed up.

BUDDY: Yes, I just wanted to reiterate what Stew had said. That's appropriate for major sites. But my concern with small sites is that as I understand the draft as it's written out, a lot of our small sites in New Jersey get caught up in the system. I know these are sites that are relatively low-risk, relatively cookie-cutter in response, everything is knowing what needs to be done. But because of their vicinity in the small area, they trigger a lot of the requirements.

My concern is that there's going to be a lot of those sites and a lot of time is going to be spent saying the same thing over and over in the public disputed process. Maybe there is an alternate track where we could have a standardized education process to teach the public what those kinds of programs are, but not giving the site specific details because that's where I think a lot of the time is going to be spent and wasted on small retail sites.

STEWART: I agree with you completely, but my experience with small sites is sometimes nobody's even aware of it. One of the things in California, though, is they require a sign on any cleanup with contact information and phone numbers. Nobody calls in, cares, no public participation.

BUDDY: The MCP does have requirements for public notification. I think theirs is primarily letters. One of the interesting things is the small retail sites now by default have public notification and participation because we have to delineate to zero. So anytime we go offsite and put wells in, we require access agreements. Those access agreements always require that we provide information and what we find to them. So any residential or commercial business that's within the area of the retail is notified of the conditions of the site. So, I mean, by default already we have that. These extra requirements require a much bigger radius and more requirements on us which will just slow us down.

OLGA: Well, I know I'm just kind of stating the obvious, but I want to make sure it's reflected in the discussion from the Environment Justice perspective, the idea of communities having access to technical experts is so critical because right now the wealthy communities get to the point to hire lawyers, and their own experts; tie-up the process if that's what they want to do. And the communities that I work with as a legal service's lawyer, there's no way they have access to any kind of technical help, legal help. And so that would be a critical thing in sort of eliminating that unfair treatment of how the more low-income communities gets treated.

STEWART: I had a personal experience doing pro bono support for an EJ community a number of years ago. At some point during a meeting with the responsible party the community members

just looked at me and said, "Do you understand what they are saying?" And I said, "Yes." And they said "Good." Because they were totally, totally lost. And they were trying, the responsible party was trying to communicate, but it's very difficult sometimes.

TOM: People have talked about smaller cleanups versus larger cleanups. And we all know that there could be small sites physically that could be a large cleanup. Maybe it's not so much of the size of the site as it is the length of time it's going to take to clean it up. That might be a good gauge of what the community process is.

If the concern is that there are sites that you can get in and out of quickly, as Buddy said, maybe you don't need as large of a public process as you would if there's going to be more complex -- complex from an environmental perspective, not size and so forth. If you get people involved early on and we see that it's going to be a two-, three-, four-year cleanup, that's a larger public process than something that might move more quickly.

OLGA: I don't know if there would be a direct correlation between like cleanup and toxicity. Obviously there would be a connection. But there should also be a ranking that if something is a particularly hazardous area, that should require a higher level of public participation than if --

IRENE: And I think it also "What is it touching on?" Is it in school like the Westbrook Middle School? Is it a playground like we have up in Woodbridge right now? So it's those types of factors, also.

ANDREW: I agree with what Irene just said. It's not so much time, it's also offsite impacts, who's being impacted; it could be ten years onsite versus one year of going into 50 homes; big difference.

The other aspect is, if you're going to have outside consultants funded by grant money, it shouldn't be duplicative. In other words, if that process going to go in and the community is going to have somebody, it shouldn't also be paying the local town engineer to also do their work at the same time. And if the town engineer isn't responsive -- if the community doesn't feel that that's the right approach, it shouldn't be both, it shouldn't be duplicate of fees.

JEFF: I agree with what he said about the first part about onsite various offsite, but also multiple sites. I think you have to look a little more carefully at individual site when you're in the middle of a community that may have five or six sites out there, especially when you have ground water problems that are coming from multiple places. But you know when you take the Ironbound or Camden or you could have one community with six to ten contaminated sites, you have to try to look at it a little more realistically, look at the picture, not a little slice.

JORGE: Just a comment regarding any criteria that come up as what's going to govern who gets involved in this process and who doesn't. You need to make sure that you have the exception opportunity. And that simply is, the last thing you want to do is slam a door in the face of a community that's really agitated irrespective of how important -- how big or how large or how toxic the site is. Because that's a self-fulfilling prophecy in the negative, it's counter productive.

JUDY: Is that what a petition process would provide that?

JORGE: Exactly. I think you really have to embrace or some sort.

IRENE: Before we move forward to prescriptive versus performance, Judy had wanted me to ask Stew a question to get it on the record, which is, Does the public participation process in California or Massachusetts make a difference in remedy selection?

STEWART: Yes, it does. Sometimes it doesn't radically change the remedy, but -- in fact it rarely radically changes the remedy, but for things like where you're going to put wells. Technology selection sometimes gets skewed. I had an experience in California where bioremediation was initially selected. And the more we looked at it, the more we looked at public impacts, it went to chemical oxidation. A lot of times to the public or even a lot of people around the table that may mean nothing, but that was a big decision.

I've got to tell you that that decision was made as preparation to a public hearing. We started talking about in a planning meeting with the Power Point on the wall, how we're going to present things, and in the end we started looking at each other and going, This isn't the way to go, the public won't accept this. So I think what I have found in California and Massachusetts is the discipline of having to present things to the public sometimes changes what you present. That, again, is major sites. Buddy's gas stations, you know, there's maybe this many technologies in current years and so many different ways, it's a lot different than these Superfund quality sites that I work on. It's informal and organic. It's not like the way Ed works where it's working to arrive. It's more of an interim process with the public and it builds trust.

Discussion of Prescriptive vs. Performance Based Remedies

TOM: Okay. I guess we're going to have Len talk a little bit.

We've had some internal stakeholder meetings. And we tried to head into the direction of this idea about prescriptive versus performance remediation. And we all know the tech regs are very prescriptive on how we get from A to B -- A to Z, at the end of the cleanup. We were trying to flush out with our staff what they thought about that and if they felt that there was a different way to do it to speed up the process in some respects.

They felt there were steps DEP could cut out or review on. Some of the examples were like work plans that we get in. And they mostly felt that there was no need for our folks to review a work plan.

If you're starting a project at the PSI, they felt do the PSI, bring it up to the RI, and submit that all at once for our review, as opposed to us getting involved in every small deliverables along the way; work plans on how they're going to go about doing these things along the way; show me at the end of the day. Follow the tech regs and bring me the report that says you followed those and we're at the RI phase.

IRENE: That would be by category of cases, not for all cases.

TOM: Right. They also talked about the speed of cleanups, and the triad approach. A lot of folks thought a field-analytical-type methodology could speed up a lot on these cases. If we did more field analytical work, getting the results real time and be able to move into deliberation in that approach as opposed to multi-mobilizations, back and forth, back and forth to the site to try to finish up delineation. Is there a way that we could judge at the end of the day without seeing all the steps along the way some way that the remediation was complete? In my section I couldn't really get there. Mostly it was about they wanted to see the steps, but they wanted to see less of the work plans, and health and safety plans. A lot of things that we require that are submitted, they wanted less of review of that on our side and more of the major deliverable reviews.

IRENE: And let's just say for the record, when we say "speed up," this is not fast track or expediting to be less protective. This is there's so many things on people's plates. When we say to a regulated entity under grace period, you have to submit this document within 30 days, they submit it within 30 days, it often takes staff a much longer time to get to it to review it, and they

are feeling pressured and uncomfortable. So the intent was, how can we make sure you the case manager do what you need to do to feel that we're making the best decisions and the most protective decisions while not being bogged down by process and paper. And that was a discussion that we've had here before, which is there's just so much back and forth with paper, it would be more productive to actually have more face-to-face meetings and field visits. And all the staff for most part are in agreement that they would much rather go out to a site, see it, spend half the day talking with the consultant and the regulated entity and be able to have that back and forth dialogue in order to make a decision. As opposed to sitting here in Trenton reading binders and binders of books and sending out 50-page comment letters two or three times.

TOM: Right. All these steps still occur, but we would review them at certain points, the critical parts. Obviously, they would still be scrutinized at an RI phase. But enough of it is prescribed in the tech regs, they didn't need to read what you're going to do. They wanted to see case managers followed the tech regs. And then they look at the report and they'll see whether you followed the tech regs correctly. So it was a way target their reviews to the most critical documents.

LEN: I met with about ten of our staff, case managers, geologists; frontline staff people that actually do the work, and talked about a prescriptive versus a performance model; what if someone goes out and just does a cleanup; like homeowner cases; we get a remedial action report when the works all done. But on larger more complex sites, what if someone just went out and did a cleanup and submitted everything when they were done? And their response was, Well, I could look at it and see and then have to show that they followed the tech regs in doing the cleanup. And I tried to drive it towards, Well, what about a model where they show the site's been cleaned up, not that they followed the tech regs citation, by citation, by citation. And to be perfectly honest, they had a lot of problem with that. Their biggest concern was they felt that they needed to really have an understanding of the condition of the site. In other words, they felt a lot more comfortable with a performance remedial action than with a performance RI. They felt they needed to really understand what the contamination of the site was where it came from, the types of things that if you followed the tech regs precisely, you would get sort of all that information. We had a good bit of discussion about that. They certainly felt a lot more comfortable with -- somebody goes out and does a remedial action after we've looked at an RI and then looked at some post-act sampling or some post-completion sampling and they felt a lot more comfortable with that sort of scenario.

JANE: I agree, remedial investigation is the key part of doing it in examination and understanding what's going on at the site. That can't just be waived; there are steps along the way to show how that was delineated. So I think that that would be very important. I thought we were going to be talking about how do you determine the end result of a cleanup and that was a performance based -- in other words, standards based or prescriptive, you know, how you do it. And so this whole discussion is more like an internal working of how you process work within the Department to get to the cleanup.

Seeing Barry Frasco's Power Point on the soil standards raises this likelihood of site specific standard being developed for sites that could be less strict than the standards that are established. And it seems to me that it creates a huge loophole where a responsible party can basically do most whatever he wants at a site. But if it says, it's capped, it's asphalt, it's ten feet of soil. It doesn't matter what's left underneath.

I'm very concerned that parallel to this process that we're doing right now of making recommendations for revamping the site remediation program to make it more effective, to make

it more responsive, to ensure good cleanups, the soil standards are moving along, and they create major deviance's from practice in the past of cleaning up to a standard, you know, and ensuring that, you know, groundwater leaching from metals -- I understand that metals are going to be exempted from that leaching, impacted groundwater standard.

I'm very concerned that these standards are going to drive in a different direction from where we're trying to go with legislation to revamp the process. And I'm very uncomfortable with this whole site-specific remedial action that can be taking place. And I thought that's what I thought this discussion was going to be about performance versus prescriptive.

IRENE: Tony Russo's folks are going to do a presentation and then we'll have a discussion about that type of thing, risk-base cleanups and scenarios. But we need to get the record a little bit straight here with regards to alternate remedial standards. The use of site specific standards are very limited.

BARRY: In the soil standard proposal package, a subchapter dealing with ARSs. Basically they will only be able to be used under certain circumstances depending upon the exposure pathway.

The greatest number of ARSs are probably going to be via the impact to groundwater pathway because that pathway has the greatest number of variables relative to site specific conditions. The assumptions that were used in the development of generic impact of groundwater standards are on the conservative side; if you use the generic numbers, we're very comfortable that you will be protective of groundwater. But because of those assumptions, we do allow for a variance, as it were, based on site specific conditions. You mentioned metals. Metals are not exempt from impacted groundwater. The metals fall into that leachate category.

TOM M.: Which is a site by site determination?

TOM: I just think we should clear up, when you say site by site, we're all talking about ground water impact.

BARRY: No, but the ground water leachate value is compared against a generic standard. It's the groundwater quality standard multiplied by dilution extenuation factor. That's a generic number which could be altered --

TOM M.: It's a concentration in leachate terms.

BARRY: The leachate that you derive obviously is site specific. Just as if you took a soil sample and analyzed it directly, that's site specific. You're comparing against a generic standard. The leachate criterion for lead is a number, that doesn't vary from site to site unless you --

TOM M.: But is it a concentration in the soil or is it concentration --

BARRY: It's a concentration of the leachate that you collect at your site that you compare against a leachate standard.

TOM M.: Okay. I just wanted to chime in on the point that Tom was making about where it's most important for DEP to do its review --

TOM M.: -- and tying it this alternate remedial standard. It seems to me that if someone comes to you and says We're going to cleanup the background, that you would give them full berth and do it and review it at the end.

TOM M.: And that could be an expedited cleanup. If they want to come in and to do the minimum, use this alternate remedial standard that I've cooked up and I followed your pages of

guidance and here are all my equations. You'd want to see every assumption, every test that went into.

IRENE: No, that's correct. And we did have that discussion with staff with regards to incentivizing cleaning up to residential or background or whatever, would we say, "If you take that pathway, we will turn your documents around in 30 days guaranteed." Whereas, if you're going down the path of wanting site specific, asking for more review from us, that that would be not as prioritized as something that was, "We're going fast and we're doing it to the golden standard" or whatever.

TOM M.: Right. And also I think that should trigger expanded public participation. If you're making decisions about, you know, predictions about what the site is going to be used for and that's going to be figured into the standards, that the people living in that area should know what you're assumptions are and they probably have a lot of information to contribute.

OLGA: Well, I just wanted to make a comment on process. Jane brought that Power Point and those soil standards to my attention, and I'm just a little confused. If there are other processes that are going to effect how outside remediation works, including changing the soil standards, then I think it's really critical that they be part of the discussion and part of the overall picture. Because it's kind of like if we're talking global big policy, but meanwhile, specific technical changes are going on that are going to effect cleanup, then I think we really need to be aware of them and make them part of this discussion.

In addition to the alternate remediation standards -- they also changed some of the specific standards apparently and I haven't really digested it -- but some of the standards went up and some of them went down and it's kind of roughly --

TOM M.: They took the upper limits off.

OLGA: -- and it greatly concerns me that there is any weakening of any standards while the review of site remediation is going on.

IRENE: Let's be clear: there are no existing soil standards, that this is the first time that we proposed soil standards. They're in the Register now for public comment up until July. I don't want to make the proposal of the soil standards part of this legislative reform, but if people want us to do a presentation of the soil standards for the stakeholder group, we could absolutely do that and explain the logic behind the standards and then have a discussion.

TOM M.: Especially the whole ARS process because I think that's where we're feeling that sort of changes in ground rules.

TOM: I think that that's a good idea. And I think there's some confusion on -- it sounds like there might be some confusion on the standards themselves on how we would apply and things like that. So that might be a good topic for just a separate information --

JANE: Also that PQL.

TOM M.: PQLs.

JORGE: For the record, ARS's apply the law not change the law. ARS's are embraced in the law and specified in the law. Barry doesn't have the right to mitigate that, Irene doesn't have the right to mitigate. It's part of the law.

TOM M.: I think how you interpret it --

JORGE: It's in the law.

TOM M.: I know it's in the law. But my interpretation is it's a tool for DEP to apply a higher standard for public health.

JORGE: It's not --

TOM M.: Your interpretation is different. But it is subject to --

JEFF: And the Clean Water Act says all streams should be fishable and swimmable. It's the law.

JORGE: One of our biggest criticisms of the cleanup standards, is the environment and people don't get hurt by concentration, they hurt by mass. And this approach in terms of dealing with compliance at point by point concentrations needs to be rethought. I want to get back to the prescriptive versus the performance. The current approach is too linear; too processed driven. It doesn't encourage cleanups early. It encourages exacerbation of problems over a long time. Philosophically it doesn't make sense for anybody to embrace that approach.

You need to figure out a way to jump-start cleanup processes within the context of an overall cleanup; to embrace the concept of immediate removals more, akin to immediate removals that allows a private part to come in and prove after the fact perhaps that in fact they did what they said they were going to do and that the process has resulted in a cleanup that has been effective. And stand by to prove it after the fact, but get to the cleanup faster. We get so involved in study after study after study that cleanups don't get done and the environment experiences harm as a result.

I highly recommend that tech regs be not regulations, they be guidance, and that we be held to that guidance accordingly. That would do away with the grace period process. Your staff doesn't like it and the regulated community doesn't like it.

IRENE: So let me, for the record, make a comment. The thing that staff doesn't like is really the NJEMS part of grace period; the burden of the data entry associated with that. In our internal working group there was a lot of praise for the grace period process from staff. Because what they're discovering is when a consultant or a regulated entity gets something that says "Notice of Deficiency" on top, they don't write back a letter with comments. They basically come in the door next week, pound out what all the issues are and the very next submittal is pretty much 100 percent compliant with what the staff's comment were. So they are seeing the benefit of the fear of enforcement in making submittals more complete. So they actually are pro grace period at this point. But they don't like NJEMS and they don't like data entry that's for sure.

BUDDY: I agree with almost everything that Tom and Len said about the prescriptive versus performance. Right now the tech regs are very prescriptive and on the UST side, I feel caught in the middle. The tech regs are meant for the big worst-case scenario sites. UST site's use a cookie-cutter but we have to go through every step. So for those 400 steps along the process we have to touch each base before we get to the end. And that really slows things down for us.

Tom said is DEP does not like to review our work plans. We found, if we don't submit the work plans, we get caught up on them. So if I decide to go out and delineate to what I think is appropriate, and then submit to say, No, we're delineated, here's our RAW, we get tripped up with, "Well, you know, maybe one more monitoring well or you put this monitoring well in the wrong spot." All of a sudden now that's a \$10,000 error in their mind and we have to put one next to it. And we just wasted that whole process. To avoid those mistakes or those problems or

changes we're going to submit the work plan and make sure all the monitoring wells are in the right spot so we don't run into that trigger. If there's some way to build in some flexibility on interpretation, what is delineation, but delineation is huge hang-up. We spend almost all of our time getting to delineation before we even get to remedial. And part of the problem is the way the delineation is required. We are required to delineate to the ground water, which is essentially zero. So I need monitoring wells all around my site to zero. On the retail sites that means going on everybody's property next door, getting access agreements, which take six months to a year to secure. A lot of our drag is on the assessment phase, which is frustrating. Because as a project manager the one question I ask when I look at a site is: What do I need to know to assess health and safety risk at the site? What do I need to know to choose remedial action selection here?

I would say 90 percent of the time I know that data. But we're required to continue on in the tech reg process because we didn't trigger the -- we didn't hit all the bases. And what Massachusetts has, they have programs like IRA, Immediate Response Action, or off-ramps which allow you to say, Wait, before we get there, we're going to do interim steps. We're going to do a hot spot cleanup. We're going to hit this, we're going to do that and put the assessment phase on hold until we get most of this stuff cleaned up and the assessment phase can be completed.

And just like one example of not hitting all the basis, sometimes when we do a tank pull, we'll dig, we'll screen the soil, we'll dig it all out you get to zero. And we'll take samples and everything will be zero. And oftentimes we'll get responses back from the Department saying, you didn't take samples underneath the lines every 15 feet. And our response is: we dug it out and it's all clean. But you didn't since the tech regs say you've got to dig them every 15 feet, therefore you've got to go back dig them. Even though it's clean dirt. You didn't do the tech regs, you've got to go back into that file system and re-sample. If we have a performance base, you would look at it say, "Well, all right, you didn't do every 15 feet, but you removed it all and it's clean what's left. Don't worry about those issues." So we're pro-performance based because things can move much faster and I think it will eliminate some of those trip-ups along the way that we're trapped into.

BARRY: Unless you are in the Pinelands, the Department is not requiring a responsible party to delineate their groundwater to zero. We are asking that it's delineated to the groundwater quality standard which is not zero.

BUDDY: No. What I meant by that is groundwater quality standards in our mind as essentially zero, they're so low.

BARRY: This goes back to a situation where the Department is following our rules and regulations relative to groundwater. If we want to change certain things, it would require a legislative change in terms of revamping how the state views its ground water resources.

BUDDY: Massachusetts doesn't have that. Massachusetts has several different criteria. So if you're on a site, we may end up delineating to 1,000 where New Jersey's 1, but Massachusetts has different criteria. That's an exponential change in what needs to be done on the site, that means we're done instead of ten more samples around the problem.

IRENE: Just for the record, if you're in an area where the impacts are going to be vapor, you're supposed to clean up to impacts that would create vapor problems. If your next receptor is a surface water body, your cleanup is based on ecological criteria. If the area is a drinking water source, you clean up to drinking water standards. So there's sort of like three tiers of ground

water quality standards. Where here we look at the Class 2 criteria directly under the soil at all times.

BARRY: What you're describing is not a prescriptive versus a performance approach, it's, "What's your standard?" If your standard's higher, then you have less work to do or you have fewer sites to deal with. It has nothing to do with how prescriptive you are. That's a discussion as to whether or not the Department's remediation standards are appropriate.

TOM: But partly what Buddy was saying was if they do get to the point where they can just remove it to a standard, let's say they agree to that, there are steps along the way to get to that removal. What I think he was saying is if we did the removal and took post-excavation samples it, they could demonstrate that.

BARRY: I agree with that, but the comment cleaning up to versus cleaning up to a 1,000 has nothing to do with the prescriptive versus performance.

BUDDY: No, I meant delineation based. The problem is we have to delineate first, so I have to put those ten wells in. In the Massachusetts, I cleanup first and if the site's clean, I don't have to do those ten wells.

IRENE: And let me just say in our internal groups, also, most staff were very supportive of a bias for action and having people go out and start to remove the heavy-duty stuff, remove the tanks, remove and then do the sampling. So and I think, some staff say they do that, that they encourage that.

ANDREW: There's a role for public education in cleanup process because of the ability to be able to communicate the impacts to people and go through this morass, which really is a morass of technical issues.

Coming back to prescriptive versus performance. What that speaks to is the practicality of a lot of what the Department requires. And I spoke about it in an earlier session about a case where the TC continually insisted that we take samples of the central line of the tank that we said about four times we don't know exactly where it was; it's removed. We think it was here, we've taken six samples. Their letters keep coming back, but the tech regs require samples of the central line. Tell me why you need this and what difference it makes to the end product? That's performance base means at least in my mind. Tell me why you want that information and why it makes a difference.

I cleaned up everything to this chemical concern and maybe the staff isn't comfortable that they have enough knowledge of the property to know I didn't miss a different chemical of concern. That's a legitimate question, coming back and say, I want you to go into greater depth in your PA because the remedy you've done is good for petroleum hydrocarbons, but what do we know about what happened on the property in the past? How do I know that you're not supposed to be looking for metal or some other base neutral?

And then there's also the practical question because in reality whether it's one part per billion or zero practically doesn't make a difference. It's where are we going with this remedy? For a lot of those sites that Buddy is talking about, and the homeowners' cases the same way, you know where you're going. The first thing is to get the source out. You might not get it all and that happens. And there's a reason why the Department would want to come back and say, "Gee, your delineation really wasn't good, we want to make sure you got it all. But you know where you're going, you want to get the source out right away." Or "You know you're going to have to put a pumping treat in because this it's heading for a surface water body." And you get the response

from the staff all the time of "Well, you don't have your PA completed right now" or "Your SI is missing Items" and where at the end of the day six and seven doesn't make a difference to the cleanup. And that's what performance base is worth speaking about.

If it's a vapor issue and it's deep and the vapor levels are at a certain point and you could say, "Gee, put in this type of venting system and you're done, it's a tank." It's a tank and that's the only thing that we're concerned about, that's the only contaminant of concern, there should be like there is in radon a presumptive remedy. There's a lot of technical information that a lot of people can come together on and say, "Yes, we know what the presumptive remedy is." The performance base is two things: getting the question answered as to why this makes a difference within the ultimate conclusion; what kind of presumptive remedies can we get our hands and feel comfortable with.

STEWART: We tend to talk past each other because the Department is focused on what I would call the laws of humanity or the political laws and consultants and responsible parties are focused on the laws of chemistry and physics. Buddy doesn't need to delineate to 1 ppb of benzene to know where the line might exist. He's removed the source. He's delineated, at least onsite, to 20 ppb, and we know where it is. The laws of chemistry and physics told him that that line that he sampled is clean which ties in what Jorge was saying about guidance. We know it. The laws of physics tell us what the regs tell us. We don't need to go that far. He doesn't need to go two blocks down to know it's two blocks down. It would make cleanups faster.

I said in one meeting earlier the DEP also like your mother. After awhile if you have a mother who's telling you all the time what you can't and can do, you know what happens, the kid doesn't do anything or is totally unruly. But if your mother is your partner and helps you, you know that you're going to work together. In the end we are trying to obey the laws of chemistry and physics. We're trying to do risk reduction. We're trying to mitigate risk pathways. We are trying to remove contaminants from the subsurface. And it is from the scientific point of view, almost intuitive a lot of times we know what to do. And we get caught up dotting Is and crossing Ts and it bogs down.

STEWART: Cleanups cost twice as much in New Jersey than in other states because the Department here is legalistic and is focused on the regs and doesn't cut a guy a break when he's already delineated to 10 ppb.

JORGE: A prescription for the cleanups is not what we need. What we need is a remedy that you put in the rules that says, "If you have this situation, if you have a serious situation that given the circumstance, here is a presumptive remedy." And guess what, by rule, you have an approved remedial action work plan.

If you have a situation involving various contaminants under say, an underground storage tank, whether that involves no ground water impacts, you have a series of these presumptive remedies, a remedial work plan approved by rule; let us go.

STEWART: In Massachusetts the responsible party submits something, it makes some sense. Get out of our way. I have a client who's willing to spend \$1 million today and the report's just being read and read. He would have the hydrocarbon plume gone, the TCE plume gone. And it's sitting there for two years.

JORGE: We're not done at that point. Just because we implement the remedial activity, doesn't mean we're done. We still have to go back and prove that it was effective. But let us get to the cleanup phase, especially when we can get to the cleanup phase now.

OLGA: Well, just as counterpoint to all that, I think everybody agrees that rules should be based on common sense things and that if immediate remedial action should be taken on the site, that's a great thing if people allow that, but it's critical that the DEP have these standards in the form of regulations and that enforcement mechanism. Because we all know that industry has an incentive to do the cleanup as financially cheaply as possible, to do the investigation as cheaply as possible. And if you want any public confidence that this process is working, the DEP has to have that regulatory authority to make sure it's done right. So sensible rules, yes, but enforceable rules definitely.

STEWART: I think there's a place for what you're saying. My experience is when you don't get legalistic and you look at this as guidance, and you've delineated to 50 ppb, and you're in with an agency that's at least a little bit flexible, the argument no longer becomes, "Oh, the regs said you've got to delineate to 1 ppb." No. The agency says, "You know what, we need better than 50 ppb. Your modeling doesn't really tell us where that line is." And you start arguing over a single well, which is much easier to have an argument about without whether we're going to actually delineate to 1 ppb.

JORGE: And the truth is we've been cleaning up sites for years on guidance, not rules.

OLGA: I think the idea of having a few rules is great.

JEFF: I think there should be permits. Where you have the oversight--

IRENE: Back to the NJDEP's permit days, Jorge.

JEFF: You have to have it enforceable. Because in this world, whether we like it or not, you have good actors and bad actors, and the government's role is to protect the public from the bad actors. I've seen remediation that has gone forward. And I'll give you an example, Greenwood and good old Ford. You know, they're collecting water out of ground water in buckets for VOCs, and it's a sandy site. Of course everything is going to evaporate out before they take it to the lab. And so you do have those kinds of games that can get played.

JOHN: I would come back first to what Buddy had said when we look at performance versus the tech regs. It was brought up a couple of different times here there are level of cases. But I think UST cases make up a pretty large section of what we're doing.

But what I've seen in the last ten years and spent a long time at the bottom of a hole and next to a backhoe, is that as the tech regs became more predominant, our remediation was certainly slower because we're prohibited from doing certain things. In that investigative phase you can do lot of the remedial action to accomplish the remediation.

Today everybody got very fearful with the DEP if you were to have to ask sort of "Mother, may I" to do something.

But many have a large receptor. You can do a tremendous amount of remedial work right there, and the hole is open. I would say to large extent industry may not want to act cheaply, but you have to define cheaply. Cheaply is getting my property back in its best use. And it's best use isn't shuttered.

So I'm willing to spend action today or money today. It is cheaper to just do it. Apply people who know personnel and professionals and mobilize. And then you build in eventualities for the future; you can build ground water recovery manifold, the vapor extraction system on those sites, exactly what's going on. And we can determine the need for it and we know we're going to have

that need in the future, but you get impeded. So it's sort of like you can go so far and you have to come back.

So I think, again, from a category standpoint, you can take a block of sites and, you know, to follow out the plume, the property owner will have to remediate to a fairly strict level if they can proceed and then put that property back into service.

IRENE: I agree. From my perspective, it's frustrating to see the number of sites where we are delineating, delineating, delineating that have been in the system whether it's publicly funded or responsible party and no one sunk that well to start pulling something out. It's very, very frustrating.

JEFF: It's hard to keep delineating when it keeps spreading.

IRENE: It's supposed to dissipate and get lower, and, yes, it's really a scary thing. One of the things that we all sort of are in agreement here and I know staff is in agreement, is again that bias for action. That getting in and taking some mass and some sources out as early as possible is something we have started to look; remedial actions up front and receptor delineation up front. Those two things have to happen quickly; before we spend a lot of time doing all the other stuff.

BUDDY: You mentioned the mother telling you what to do and what not to do. There are people who will stop doing stuff or will misbehave. I think there's a third category some of us fall into: we keep trying to do what mother tells, but as soon as we get there, she changes what it was that she told us. It's very frustrating to make the effort and to think that you're getting there, but the rules change or the finish line changes.

And there are a lot of parties out there are good actors and there's probably a lot of responsible parties that aren't so responsible, bad actors. But in order to respond to the bad actors the rules are made more strict. The bad actors aren't going to listen anyway. It didn't change the way they're going to behave. But the rest of us that have to deal with them just get more frustrated. Here's more rules, they're tougher rules, they're tighter rules and it's just frustrating that we can't get to, you know, where we should be.

IRENE: That's a valid point.

STEWART: My vision is of a different world where there's a New Jersey LSP and we've got some of these impediments out of the way. The site's identified, LSP does a work plan, signs it, sends it into the DEP. He's now got the full faith of his insurance and his professional reputation. They do the work. They discover some additional contamination. He quickly prepares a RAM plan and actually removes the contamination, sees that it's impacting groundwater and quickly puts in a groundwater remediation system. All under a RAM plan or an interim action. It's all documented up, sent into the DEP.

The site is cleaned up. It's not very well delineated because they've been focusing on where the contamination is. In the course of this process there may have been one or two or even three public hearings because the law says so and the LSP doesn't want a public protest outside the site he's working on with his client.

Within this whole process I just explained would occur over a year or months. At the end you sit down with the DEP and you go, okay, we cleaned up basically the source. We cleaned up all the major contamination. We have it delineated to about 0 ppb, what do we need to do to close out this case? You've now got a whole cleanup, delineation and everything done in maybe less than two years if you don't look at it as legalistic and shift responsibility to people who sincerely want

to cleanup sites. What's wrong with that vision? It certainly makes the Department more efficient and then you guys can actually spend time on enforcement on people who are uncooperative and let the people who sincerely want to clean up sites and make things happen do our thing.

IRENE: I actually like the vision. And let me just say that one of the things I liked about Massachusetts is the way sites did move through the system in a year to two years. Almost all the sites moved through in a year to two years.

TOM M.: What's wrong with an LSP, have an HWHMSA [DEP] doing that?

STEWART: Because they take a year or two to start reading these reports.

IRENE: I don't think, caseload wise, we could ever truly get there.

STEWART: They cannot get these things turned around.

TOM M.: So what's your motivation for doing that?

IRENE: Their license and their livelihood.

TOM M.: No, I'm talking about the guy who's paying him.

JORGE: Time is money.

TOM M.: Who's going to come here and say, You've got a problem, Buddy, I want you to clean this up?

STEWART: A lot of responsible parties understand that time is money. Getting it done quicker is cheaper in the long run than letting it drag out.

TOM M.: And would you go for a presumptive remedy and stringent standards along with that bundle or are you going to be coming up with your own standards--

STEWART: In the end it would be a standard that would either --

TOM M.: No. I'm saying as a benefit of giving you that liberty to do this.

JORGE: Where's the liberty?

TOM M.: You've been bragging on this process for three months now. And we're saying your basic principle is wrong.

STEWART: But at the end my vision is we argue, we sit down with the Department and the LSP and we say, Okay, we've got this site now 90 percent cleaned up. We think 90 percent. The Department might say 85 percent. The argument now is over 5 percent instead of the whole --

TOM M.: And you have the documentation to prove this? You have --

STEWART: And if the Department says we need a well over here, you argue about that well instead of the whole program --

JEFF: Where is the fail-safe system in case your presumptions are wrong?

TOM M.: All right, who's checking? Are you checking?

STEWART: At the end you have to prove it. But you see what I'm saying; there are so many obvious things that need to be done that you don't Departmental approval --

TOM M.: Let's say you're a bad guy, you've built mini-landfill on that site with all the hazardous materials and put it in a nice little box and covered it up and said --

STEWART: If it gets audited, the LSP's career is ruined. The full enforcement of the Attorney General's office is on that guy. In Massachusetts it happens less than 1% of the time.

JEFF: And I've been at planning board meetings for 30 years where the town attorney will say, Oh, the engineer has no reason to lie, he can lose his license. I haven't seen one engineer lose their license even though I've seen some really botched and bad and illegal things going on with engineers on land use issues. I can give you chapter and verse on them if you really want. That's part of the problem.

STEWART: The LSP system has more teeth in it.

JEFF: I've seen in the federal system where you have your consultants that are coming in, working for the RPs. So many RPs want them to cut corners, undercut, bury the original remediation, play games with testing. And, you know, one of the things that -- and I'm not sure I want to see a system of privatization happen. But my belief is that you're going to go in that area, then the engineer shouldn't be working for the RP, they should be working for the state with an independent escrow so that they're not under that pressure to cut corners. Because you may be the greatest guy in the world, but I can show you other engineers that are either incompetent or lazy or are under pressure. They've got a \$2 M client who tells them, "we want you to bring that in for a million and-a-half, do what you have to do."

TOM M.: Now, are you going to do the remedy selection?

STEWART: In accordance with the regulations and understanding that you're entire career is at stake basically.

TOM M.: Yes, but you're looking out for the interest of not only the site owner, but also the neighbors, future landowner? This is the role of the DEP right now.

STEWART: It has to stand up ultimately to the DEP scrutiny.

TOM M.: But whose interest are you looking out for?

STEWART: In the end you're being paid by the RP. But you're trying to keep the RP on the right side of the law and you're trying to keep your career intact. In Massachusetts one-third of all LSPs are audited every single year. It's not like a PE system where it's like you make two or three examples a year. They're make dozens of examples every year. And in fact they'll even issue grades on some of these folks. So it's got to have a lot of teeth. The LSP ends up being caught in the middle almost.

TOM M.: So you would decide to cap it versus cleaning it up?

STEWART: In the end that's what you have to decide.

TOM M.: What if the neighbors are against capping?

MARK: Then I guess there's a problem.

TOM M.: But who's problem is it now that the state's abrogated its responsibility and turned it over to --

STEWART: But you see, if you have public participation and then the state has the right to step in over the LSP, okay. You go to the public hearing, you don't like what you're hearing. There's

no way you're going to let these guys cap. Well, you go see Irene and Irene looks into it, she's on the phone with the LSP and all of a sudden the state has taken back their authority to run the cleanup. So there is that trump that public participation gives you.

JEFF: Then there's a counter trump, which is then the person who owns the engineering firm calls the Governor's Counsel's office and complains.

ANDREW: If the LSP working with the RP says that, "Gee, a cleanup that is in conformance with the applicable regulations and statutes can be capped and the community says they don't want it," my question really is why doesn't the community want it? Is it related to what the standards are and what the law required and what the risks are or, as often is the case, is it because they don't want that development there.

TOM M.: I think the community has a longer term view. They don't want to see mini-landfills all around the state that the next generation is going to have to cleanup anyway. So if you have a different vision from the guy who's trying to get out of there with the least cost, you should have a place at the table, too.

ANDREW: If you want the state to come in and clean up every site, then find the money and the state can come in and clean up every site. Although in the LSP Program, we're talking about being transparent; if you're focused on independence and whether it comes from a check that the RP paid to the DEP and the DEP to the LSP or the check goes directly to the LSP. I'm not sure there's a distinction. But if that's a critical factor, that's certainly worthy of discussion.

If to get the program off and going it requires some state funding and also some responsible party funding that it's not one-third initially, but for the first two years it is all the cases get audited to create the credibility for the program, that's something that's worthy of discussion.

But to say that the state has abrogated its responsibility is inflammatory and inaccurate. It's not the state abrogated responsibility, the state is --

FRANK: Not being intimately familiar with the consequences to engineering firms in preparing reports -- I've worked with many engineering firms and I know there is a bias to please their client, there's no question about that. But to me the discussion seems to be more apt to focus on the terms and conditions of the LSP program wherein, you know, perhaps losing your license to a major auditing firm is irrelevant if you can paper it with all sorts of safe clauses whenever you're doing an audit. Look, the same thing happens with engineering firms when they're doing their environmental work. That you would easily put together and I dare say even criminal.

The issue isn't so much whether or not the program is the problem, the question is the parameters of which you permit this act. Because clearly the resources are not there at this point in time, and I don't see them as being there in the future. The point is these sites are not being cleaned up.

JOHN: To get back to it, I haven't been here for a lot of the LSP arguments, but looking back at the performance and the tech regs, the situation exists today where there are a lot of cases that aren't moving. And the potential does exist because you have the statute, regulation, and policy

We used the variance request at one time. We're going to be looked at as a potential for a file library that we would be able to look at and say, "Okay, wait a minute, do we have similar site situation as these?" And some of the various procedures get cumbersome. It's really innate issues. Some of the former documentation and things like that may end up missing. Then you end up with a variance request before things get done.

So I think there are probably some things that could be done in a short-term which are leaning towards a performance basis, while some of these bigger issues are moving ahead.

IRENE: I agree. One of the things we said all along is that this has to be a multi-pronged approach. An LSP would be three years down the road. So there have to be things that we do in the interim to change the situation.

For the record, in the idea that we can tweak the edges, get some more staff and move the 19,000 now cases that are in the system in any sort of reasonable and acceptable time frame is faulty thinking. We have to do something dramatic to get cases moving. Because we are -- and I've said it multiple times in public, we are an impediment to sites being cleaned up and that's not good for anybody in any community.

OLGA: I think, from the community's perspective, the whole issue with this LSP is not that the community is so concerned whether a central entity designated the cleanup site, cleaning up the site, or whether individual responsible parties are hiring their own consultants to clean up sites. I think the issue is what kind of control and oversight there by a neutral entity whose concern is the protection of the public, not a direct financial investment in serving a client who wants that site cleaned up cheaply.

So a system where there would be more public input in remedy selection, more strict controls over how the sites get cleaned up. Then it wouldn't matter if some other entity were actually responsible for the mechanics of carrying out that work. But when you get the decision-making authority, the lack of oversight, those functions essentially privatized, that's when it creates great community concern. Because who's looking out for public interest in the process and what assurance do we have that something other than financial incentive isn't being considered.

So I think that's the critical piece, not who the cleanup is farmed out to.

JEFF: I just wanted to state something for the record. There was a bill up that we were working on with Linda Greenstein that would have made it a crime to deliberately give false information to the DEP on a hazardous site. That came out of the WR Grace stuff in Hamilton. And many of the people who are involved in this process would like to kill that bill. So when we're talking about oversight and saying if you're going to willfully and maliciously lie, withhold information from the DEP when it comes to hazardous materials, you should go to jail.

Well, guess what, BIA worked really hard to kill it and that bill's not going anywhere and a bunch of the other people in and around this room were a part of that. So on one hand you're saying they're saying we have to have oversight, well, here is a bill that would have said if you lie and you deliberately withhold information or give false data, it's a felony. Well, guess what, that bill's not going anywhere.

MARK: If I may: the argument was about the standard, "recklessly, knowingly and negligently." Now negligently was going to be turned into a crime in the 4th degree, which is an 18-month term and a possible twenty-five to thirty-five thousand dollar fine. That's not a criminal standard. Negligence doesn't usually rise to a criminal penalty. But that's what that bill was doing. The only thing that was taken out of that bill was the negligence standard.

JEFF: And after that was taken out, it never got posted because a lot of people went to leadership to kill it. And that bill's not going anywhere.

MARK: The bill was passed last night.

JEFF: Not in the --

DAVID: The statute of limitations.

JEFF: I'm talking about the Greenstein bill. The Greenstein bill is dead.

JANE: I'm really concerned about privatization, putting what you call LSPs into this to process. Because the cleanup authority rests with DEP, the standard setting authority rests with DEP and enforcement rests with DEP. I don't see a law for privatization in doing this work. I just think that the public trust is that there's going to be a government agency that's overseeing this, and they can't delegate that authority. They've got to have the authority, the enforcement powers and the oversight.

I do think that there is a role for instituting cleanup actions before all the total delineation is done. And that there should be a way for that to happen. But I just object to this idea of privatization of the actual design and implementation of cleanup.

IRENE: Let me just say that in Massachusetts the oversight of cleanups, the enforcement and standard setting is still government responsibilities and still would be under a LSP. It's just, do you have to have somebody overseeing every single aspect of what's happening at a site during the entire length of the investigation and the cleanup?

I just want to get on record saying that there's just no way the staffing and DEP now can handle it as is evident by what's going on right now. And we have to have some other solutions. And the solution; hiring more staff won't get us there.

ADAM: It's very interesting to me that the discussion keeps falling back to LSP. It wasn't on the agenda today. It keeps coming back to the issue of the Department saying we can't handle all the work, and one half of the room saying, You know, we do this, we make our living doing this and we think we can do it responsibly, and the other half of the room saying that there's just too much trust that's been breached to turn this over.

There have been statements made that staff has now started to be brought into this process. I don't know what staff. But I think it's inaccurate to continue characterizing staff as supporting the License Site Professional Program, they don't. Some staff might, some staff don't. But I don't think it's responsible to include in the minutes some sort of characterization that staff are entirely behind it or entirely opposed to it. So I just want to make that clear.

TOM M.: Has CWA taken a position on this?

ADAM: Yes. CWA is opposed to it because it's outsourcing regulatory authority which is a form of privatization. It masks the resource need of the Department. You know, whether its 450 new staff people or 900 new staff people, it's an incredible amount of work. And I think that sort of begs the question why are there 19,000 sites that need to be cleaned up? Because there have been irresponsible bad actors out there.

When you get into the question of auditing, even if you audited one-third of the cleanups, that's one-third more work that you don't have people to do right now, unless you're talking about an audit that is substantially less review, substantially less work than what it would take to just do the work in the first place.

The bottom line is, if there's a bad actor, if there's an audit that uncovers something wrong if there's a day care emergency, the sky is falling, the DEP still signs off on that cleanup. Whether they did an audit or not of that site, DEP, the state ends up bearing the liability, the responsibility and the political fallout. And then it falls on the staff people anyway.

I wish I could come in here with a silver bullet and say here's how to hire 400 people, no one in this room can seem to come up with a way to do that. But it doesn't seem to me that we should just rush to "let's do speedy cleanups, let's move things through the system faster just for the sake of doing it" because that's part of the reason we're in this predicament now is speed and cleanup not being done right.

So I would like to have greater staff participation. I know there have been some small groups with invited staff to participate. Well, that's my understanding of the 25 people that were involved in discussions so far.

But I think that it's very important going forward to try to strike a balance a between having the business community being able to develop, which we're all in favor of because it ultimately solves our budget problems. But I don't know that auditing a couple of dozen or auditing a third is an appropriate balance to turning over essentially DEP's regulatory authority.

BUDDY: The reason we have so many sites in New Jersey is because we can't get them closed. The reason we can't get them close is because the tech regs are too restrictive. We can't hit a 400 bases and get there on time.

As far as caseload, when we look at other states, we feel New Jersey actually has a low caseload per case manager compared to other states. On the UST side, responsible parties in New Jersey are the same responsible parties in all the other states. We have the data and I hope we're going to share some of that with you next week.

But when we look at what's the difference between New Jersey and the other states, other states are getting sites closed. New Jersey is getting more sites than they close. So the case count continues to increase. The difference is not the responsible parties were the same across the board. The difference is the rules.

The tech regs are draconian. No other states have this 400-step process. Most of them are flexible. Massachusetts has interim. Most states much performance-base system, which allows a site to get cleaned up faster. It reduces the overall risk and just a common sense approach. So that would be why there are so many sites in New Jersey.

But as far as the LSP, my personal opinion is I don't like LSPs. I'd rather not have LSPs. From my perspective, it's another person in the process. I want rules that I can follow. I know what to do. I know how to do it. I've got the resources to do it, but I can't get there 'cause the rules are impossible to get there. I'd rather have performance-based rules in place that I can meet, submit and be done.

My problem with the LSP is now I've got to satisfy the LSP and the DEP because the DEP still has final sign-off. The DEP's still going to do whatever they want to with that site. The LSP's trying to find that middle ground and make the responsible party happy and make the DEP happy. But if having an LSP means that I get a performance-base system, then I think it's a fair compromise.

ANDREW: I'm not sure for most of my clients and certainly for the industry I'm representing, it works. And, you know, if we can find the employees to get hired and do things, that might be better. There still may be a debate open as to whether there are certain sites where LSP is better than hiring extra staff people 'cause it's just more efficient. The LSP effectively will become someone that reports to the staff.

The statement that everyone here is in favor of getting these sites developed and having development, that's not true. There are people in the state with the agenda of no development. And sometimes a lot of these issues are used as excuses to stop development.

Why we have contaminated sites isn't always because we have bad actors. A vast majority are not bad actors, it's people who at the time did things they say everyone did. We're learning now that that was bad. There are times where people have properties, but they didn't put stuff there. They took care of the property, bought the property. They didn't know it was there. To correct that perception is important, too.

And the other thing is the 19,000 sites. It's not 19,000, it's a vastly huge number and we're learning. And it'll come up next week when we start talking about schools.

How many sites have been investigated? What about private property, how many of our public parks, how many of our schools, how many of our public buildings, how many of our Little League fields when they're someone else's property have been investigated? And how many of those, if the Department adopts the standards they're proposing, are going to be deemed unhealthy? Which is a term we have to be careful how we use. It's a standard the legislature established on a risk-based level that doesn't necessarily mean it's healthy. And I think the Department does a poor job of pointing out that the standards as they apply are chronic numbers.

I think it's important for the public to know that. The chronic number doesn't make everyone comfortable. If I have a chronic number on my property, I'm not necessarily comfortable with that, but I'm not as alarmed as I might be. I think it's important to give that information as well.

But there's a huge number of cases out there. To think that we can keep hiring more people, eventually we're going to hire everyone in the state to be a case manager to a site.

TOM: I just wanted to throw out is that we obviously have to be sure that if you're going that way -- and I'm not against, obviously, biased for action and getting stuff out quickly, I don't think anybody's against that. There has to be a way to assure that there are receptor impacts.

That has to be identified early on and probably some consistent identification that as you move forward that you're not impacting receptors of any kind or strange or people or vapor intrusion problems, those types of stuff. Those are real issues and that's something that Stew needs to factor into his world. Because those are the things I know we are concerned with first. The first thing is, is there anybody being impacted from the site once we know about it.

STEWART: My vision did say there would be a receptor analysis. The way I've always seen the LSP system work is that all along the way, the LSP is trying to serve both masters. So his clients are not just the RP, his client is the agency and he's constantly talking to the agency. It may not be formal deliverable, but the agency knows what he is up to. He's trying to deal with the agency almost like he's dealing with his other client. The reason it works in Massachusetts is they require pretty extensive cleanups. It was really a way to create a system that was both efficient and created a presumptive way of getting good solid cleanups.

The fact that Buddy doesn't like it should be encouraging to some of the other people at the table. It's the only way we can get out of the mess we're in, 19,000 cases. Reports take years to review with detailed actions in them. It's not working. And this is just a way to make it work in a state like we have. Massachusetts is very similar sociologically and geographically to New Jersey, similar industrial legacy. It's working up there, so it should work down here. The key different is their political culture; everybody was committed to it.

JEFF: I've seen reports from Massachusetts showing lots of problems with the program.

DAVID: Government routinely found sites hadn't been tested properly for pollutants. In one of every ten cases the state rejected the consultant's assertion the site was safe. Seventy-one percent of private cleanups finished in 2005 required some sort of follow-up cleanup work often because consultants had misidentified pollutants or botched measures of how far they had spread. In 9 percent of the cases the state completely rejected the cleanup plan. Eighty-seven percent of consultant reports lacked critical information. Previous years had similar problems.

TOM: Could you just for the record quote what you're reading from?

DAVID: That's the Massachusetts audit of the program.

STEWART: I actually checked with some of the LSPs employed at my company what that meant because I read that, too. And specifically it's the typical -- in my vision, what they're describing is that last percent that is worth arguing about, whether there are enough wells on the site, whether the pump and treat system had enough recovery wells and things like that. That's what that's all about. Most of those issues are actually what we would term administrative. You want another recovery well, here.

What's happening in the state of New Jersey is we are waiting three, five years to build pump and treat systems in the first place because our reports languish in the Department.

DAVID: But you don't need to privatize the program to expedite cleanup.

STEWART: How else are you going to get it expedited?

DAVID: Who pays for those staff? Is it paid for by the responsible party or parties to the responsible party or is it paid for by the responsible party for that person reporting --

STEWART: We're already paying for the reviews.

ANDREW: But the money doesn't go to the Department. That's a problem.

DAVID: If they assessed trouble damages a couple of times, we'd get cleanups expedited.

ADAM: Would you be willing to pay premium to get your site reviewed faster? And how does that money go to the Department? I mean, I think that's

BUDDY: We pay time and material for whatever the Department wants to do on the site.

LEN: Our oversight monies come directly into the Department and pay our salaries. There are some fees such as tank registration fees for operating tanks to the general treasury, but our oversight costs come in the Department.

ANDREW: The statement has always been made, "Gee, we're paying for oversight, how come you can't hire more case managers" and the statements come back and says the program doesn't pay for itself.

LEN: I think what's meant by that is we are not able to collect 100 percent of our salary costs across the whole program.

DAVID: Under the Whitman administration all fees and fines stopped going to DEP and go to the general fund and then the annual budget it gets appropriated back out to some degree, not enough.

JEFF: Part of the problem is that there are not enough priority systems in place so that we can target those sites better, best ready for new development. It's still first come, first serve. Another

way to also look at it is you come in, with the most protective standard, and you should be pushed through the system faster because you're going to be coming up with a plan that's going to do all those good things that we know will make the site much more protective versus one of those remedies that may be more in the middle where some kind of capping system that may or may not work all the way and you need more input, from case manager.

TOM: It's been mentioned in here a couple of times -- we're working on a priority system right now that is based on the GIS system where we can bring in different areas, schools, sensitive areas, or others. And that's something that we had talked about. We did talk about having you folks look at that. So I agree Jeff that we're working on a way to try to prioritize these sites.

This sounds like this is probably a good time to wrap it up. It sounds like we had an excellent discussion on these topics. Just so everybody knows, next Friday is the next session and we're going to be discussing two things. We're going to start off with school issues. I think there was an agenda that sent around. I think Judy sent the agenda around.

JUDY: We're going to go to 12:30. We want to go over the white papers as well so been prepared to stay.

TOM: And there's also going to be a presentation on risk-based directive action. That's something we're going to have presentation on by Tony Russo and some other -- I don't know if Buddy's involved in that. Then there's going to be another presentation and discussion on that.

OLGA: I just have a question about how you're wrapping up this process. Other than that presentation about the soil standards this next week, then the last meeting with Bruce and what's the process for reviewing and commenting on your web --

TOM: That's a good question. Irene had talked to me about that a little bit yesterday. And one thing that we were wondering and suggested was, once we start getting the white papers out, we're going to plan on topic wise having next -- the next session be the last meeting to go over topics and start handing out the white papers and getting comments on those.

One thing we did talk about it, if everyone thinks that it's a good idea, we can meet with the stakeholder group, if you would like, to go over some of the white papers if that would be helpful and schedule some of those meetings.

OLGA: Well, what was your plan and process on input on the white papers?

ANDREW: I'd like to throw something else out. Because I think ultimately you do need to have it. You know, we're going to have the white papers. They'll be out, there'll soon be some additional discussion. I don't think there's a problem with some level of iteration quickly via e-mails before the meeting. Because maybe things can be hashed out on that, maybe language could be cleaned up, maybe at least points could be put out. And then final working sessions - quasi, putting quotes around final - to try to in a meeting so that, you know, there could be discourse where there needs to be discourse, but a lot could be done before those meetings, I think. And you might agree or disagree or whatever the story is, but just to try to get that out there, it's possible, it's feasible.

OLGA: I think that the critical thing is that if we get the white paper on Friday, we can't intelligently discuss it the same day. So we need time to review it and digest it. And I don't think our goal, as I understand it, is not that we're going to come up with a consensus in addition to these white papers, but we're all going to be concerned that our point of view is --

TOM: That's right. I was going to point that out, Olga. It's not that we're expecting the white paper to just give one view. It's obviously going to give the issues. And as Irene said before, there's going to be sides of the issues and pros and cons to the solutions.

ANDREW: Yeah. I was thinking more of the section -- I understood the white papers to have a section that identifies the issue. And I think the wording of that, something where there needs to be an agreement as to how the issues are identified. People can offer opinions after that, but identification of issue needs to be, I think, as much consensus as possible.

JEFF: And one issue I'd like to have put back into the white paper is the insurance stuff.

There were some things that were disturbing. Some of the stuff that will be in the white paper like uninsurance because we missed that meeting and there were things in there that disturbed me.

TOM: So why don't we plan on doing that. Why don't find out setting up another meeting, get the white paper out and Judy and I will work on scheduling at least one meeting. If we need more, we need more to try to get together on issues once everyone has a chance to review them. All right?

OLGA: I have a selfish request to comment on the white papers past July 23rd because I'm going to be going away because I have a deadline of -- before July 27th.

TOM: We'll talk about the deadlines and maybe we can talk about it a little more next week. We'll talk about it internally and maybe Irene can come up with a suggestion. All right. Thanks everybody for coming. We're got out before 12:00 and have a great weekend.