

**ENVIRONMENTAL MANAGEMENT ADVISORY BOARD
to the
U.S. DEPARTMENT OF ENERGY**

PUBLIC MEETING MINUTES

James E. Forrestal Building – Washington, D.C.

September 29, 2005

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ENVIRONMENTAL MANAGEMENT ADVISORY BOARD

September 29, 2005
Summary Meeting Minutes

COMMITTEE CHAIR

- Mr. James A. Ajello, Reliant Energy Solutions

COMMITTEE MEMBERS

- Mr. C. Stephen Allred, Consultant
- Ms. Lorraine Anderson, Arvada City Council
- Mr. A. James Barnes, Professor
- Dr. Dennis Ferrigno, CAF & Associates, LLC
- Ms. Jennifer A. Salisbury, Attorney-at-Law
- Mr. David Swindle, IAP World Services, Inc.
- Mr. Thomas Winston, Ohio Environmental Protection Agency

EMAB EXECUTIVE DIRECTOR

- Ms. Terri Lamb

PARTICIPANTS AND OBSERVERS

- Charles E. Anderson, DOE Principal Deputy Assistant Secretary for Environmental Management
- Jeanne Beard, DOE Office of Business Services
- Willis Bixby, DURATEK Inc.
- Chris Burrows, BNG America
- John Evett, DOE Office of Project Planning and Controls
- Mark Frei, DOE Deputy Assistant Secretary for Business Operations
- Douglas Frost, DOE Internal/External Coordination
- Mark Gilbertson, DOE Deputy Assistant Secretary for Environmental Cleanup and Acceleration
- Karen C. Guevera, DOE Director, Office of Project Planning and Controls
- Brian Hansen, Inside Energy
- Dennis Hosaflook, DOE Office of Project Planning and Controls
- Colin Jones, BNG America
- Stephen Lien, DOE Office of Cleanup Technologies
- Steve Miller, DOE General Counsel
- Mike Nartker, Weapons Complex Monitor
- Melissa Nielson, DOE Director, Internal/External Coordination
- Betty Nolan, DOE Office of Congressional and Intergovernmental Affairs
- Don Oakley, DOE Florida State University
- Brandt Petrasek, DOE Internal/External Coordination
- Charles Powers, CROSP
- Jay E. Rhoderick, DOE Director, Office of Performance Assessment
- Barry Smith, DOE Director, Office of Acquisitions Management
- Sara Szynewski, Energy Communities Alliance (ECA)
- Sean Todd, FPR

- Inés Triay, DOE EM Chief Operating Officer
- Matt Zenkovich, DOE Office of Project Planning and Controls

EMAB Staff

- Mr. Wayne Whitley, DOE
- Ms. Shirley McCall, DOE
- Mr. Bill Murphy, MELE Associates
- Ms. Michelle Hudson, SAIC

ADDITIONAL MATERIALS

Available Upon Request
(202) 586-9007

ENVIRONMENTAL MANAGEMENT OVERVIEW

- Site Operations Overview Presentation (provided by Ms. Inés Triay)
- End State Presentation (provided by Mr. Mark Gilbertson)
- Contract Strategy and Management Presentation (provided by Mr. Barry Smith)
- Project Management and Oversight Presentation (provided by Ms. Karen Guevara and Mr. Jay Rhoderick)

EMAB Members

- List of Members and Affiliations

LIST OF ACRONYMS

ANSI – American National Standards Institute	FEMP – Fernald Environmental Management Project
B&P – Bid and Proposal	FFTF – Fast Flux Test Facility
CO – Contracting Officer	FY – Fiscal Year
COO – Chief Operating Officer	GFSI – Government-Furnished Services and Items
CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act	HLW – High-Level Waste
CPIF – Cost-Plus-Incentive-Fee	HR – Human Resources
CRB – Certification Review Board	HQ – Headquarters
D&D – Decontamination & Decommissioning	IDIQ – Indefinite Delivery, Indefinite Quantity
DAS – Deputy Assistant Secretary	INL - Idaho National Laboratory
DFO – Designated Federal Officer	IPABS – Integrated Planning, Accountability and Budget System
DNFSB – Defense Nuclear Facilities Safety Board	IT – Information Technology
DOE – Department of Energy	LANL – Los Alamos National Laboratory
DOD – Department of Defense	LBNL – Lawrence Berkeley National Laboratory
DPW – Department of Public Works	LLW – Low-Level Waste
DWPF – Defense Waste Processing Facility	LM – Office of Legacy Management
EH – Office of Environment, Safety and Health	LTS – Long-Term Stewardship
EIS – Environmental Impact Statement	M&I – Management and Integration
EM-1 – Assistant Secretary for the Office of Environmental Management	M&O – Management and Operating
EM-2 – Principal Deputy Assistant Secretary for the Office of Environmental Management	MAA – Material Access Area
EM-3 – Chief Operating Officer for the Office of Environmental Management	MLLW – Mixed Low-Level Waste
EM – Office of Environmental Management	MOU – Memorandum of Understanding
EMAB – Environmental Management Advisory Board	MPDES – Pollutant Discharge Elimination System
EPA – Environmental Protection Agency	NAPA – National Academy of Public Administration
FACA – Federal Advisory Committee Act	NAS – National Academy of Sciences
FEMA – Federal Emergency Management Agency	NGA – National Governors Association
	NE – Office of Nuclear Energy

NEPA – National Environmental Policy Act
NNSA – National Nuclear Security
Administration
NRC – Nuclear Regulatory Commission
OMB – Office of Management and Budget
ORP – Office of River Protection
OSD – Office of the Secretary of Defense
OSHA – Occupational Safety & Health
Administration
PAR – Performance and Accountability Report
PBD – Program Budget Direction
PBM – Performance-Based Management
PBS – Project Baseline Summary
PMP – Performance Management Plan
RCRA – Resource Conservation and Recovery
Act
REA – Request for Equitable Adjustment
RFP – Request for Proposal
ROD – Record of Decision
ROTC – Reserve Officers' Training Corps
RW – Office of Civilian Radioactive Waste
Management
SBA – Small Business Administration
SCIENCE – Office of Science
SEB – Source Evaluation Board
SNF – Spent Nuclear Fuel
SNM – Special Nuclear Material
SSO – Safety System Oversight
SRS – Savannah River Site
TRU – Transuranic Waste
WBS – Work Breakdown Structure
WIPP – Waste Isolation Pilot Plant
WTP – Waste Treatment Plant
WM – Waste Management

Meeting Minutes: September 29, 2005

Opening Remarks

Mr. James Ajello, Chair of the U.S. Department of Energy's (DOE) Environmental Management Advisory Board (EMAB) called the meeting to order at 9:05 a.m. in Room 1E-245 of DOE's Forrestal Building in Washington, DC. Mr. Ajello welcomed two new members to the Board: Mr. Stephen Allred and Mr. James Barnes. The other members of the Board, David Swindle, Jennifer Salisbury, Dennis Ferrigno, Tom Winston, and Lorraine Anderson have been members for the last couple of years plus. Member biographies are available on the EMAB Website at <http://web.em.doe.gov/emab/>.

Mr. Ajello then discussed his objectives for the meeting: information gathering, priority setting, and future planning. Mr. Ajello recognized the contributions of former EMAB Executive Director Jim Melillo, who retired after many years of service to the Board. He also recognized Terri Lamb, the Board's new Executive Director, and praised her contributions to the meeting.

Mr. Ajello then introduced Mr. Charles E. Anderson, Principal Deputy Assistant Secretary for Environmental Management, to provide an EM Program Overview.

EM Program Overview

Mr. Anderson emphasized that his presentation would highlight areas where EM will be focusing its energy in order to provide the Board with a better understanding of EM's expectations of delivering risk reduction that is safe for the worker, protecting the environment and respectful of the taxpayer. He noted that during the past three years, he has been actively engaged in focusing the EM program on risk reduction rather than risk management. He noted that Secretary Bodman has repeatedly emphasized his commitment and our responsibility to address the environmental legacies.

Mr. Anderson then discussed what needs to be accomplished in the next few years for EM to be successful. There is a need to establish a "disposition machine" for our 90 million gallons of radioactive liquid waste in approximately 200 tanks; for our 2,500 metric tons of spent nuclear fuel; and for thousands of kilograms of special nuclear material. We need to continue to dispose of transuranic and low-level waste. We must continue the momentum to have results to show. And we need to continue to decontaminate and decommission those facilities no longer needed by the Department and remediate soil and groundwater contamination. By 2008 we need to take 14 sites, including Rocky Flats, across the finish line.

The EM program needs to deliver four key elements. First, safety is paramount, particularly when there's doubt and confusion, as we can see at the WTP in the last couple of weeks. Second is delivering on commitment. The Secretary has emphasized that the Department has had a habit of over committing and under delivering. We want to make sure that we are delivering the commitments that we make.

Third is to ensure that our work has a sound technical and business basis. Our decisions need to be based on sound science and engineering principles. We need to plan our work and work our plan. We have to make sure our project management is on a solid basis. The Board will be involved in some of the risk management reviews as we look at the projects and our task of setting the disposition land and delivering on true. Fourth is acquisitions. EM needs to become an acquisition organization. Our goal is to make sure that our site contracts are designed to drive

outstanding performance and to pay for that performance. We are looking for all those interested to come forward with new ideas and innovations, including small businesses.

By taking these steps we can alleviate some of the issues we have encountered in the recent past. We've designed the program to shift away from risk management to risk reduction, but we have witnessed that some of our assumptions will need to be modified or refined based on lessons learned.

Today you will hear about project management, end states, contract strategy. You will look at how we do things. Those are key components to solving our cleanup and to moving ahead.

Recently, I was asked, "What is the biggest challenge facing EM?" I answered with "communication." It's communication inside the Department, between contractors and EM and even between EM and our skeptics. We want to share ideas, learn from lessons of the past and build on the momentum that we have worked diligently to accomplish with taxpayer funds. We haven't learned a lesson if we aren't changing something to improve, we've only identified a problem. I look forward to hearing from you and ask that you engage us in order to achieve our cleanup objectives.

Questions:

Mr. Stephen Allred: How do you achieve the kind of integration you discussed? I know you're trying to do it at the site, but how does it happen at headquarters?

Mr. Anderson: One of the reasons I am here is because I have worked in the different programs. I spent a good bit of my time trying to bridge gaps that were created in trying to change the program to a risk reduction program. We do have a difference at the sites that will have ongoing missions versus those that are truly closures. You will hear the terms closure and completion and they're really two different things, even though they both have an end-state.

When we look at completion at an operating site, we've got to think about it in the context of "what's the future mission," or "what's the potential future mission." The goal of the EM program is to eliminate a legacy. We don't want to create large amounts of legacy high-activity waste. Are there steps that we could take to make those separations or treat that material in situ? I think you will see some of our newer facilities where we are not actually creating groundwater problems that were created in the past. We are trying to not create new legacy problems for the future. It takes a lot of communication. Everybody has a real knowledge base in their particular area, but we have to look across the board and make sure there's integration between EM, RW, Science, NE, and NNSA.

The Secretary has shown this by example, and his example is filtering down. You see it through the Deputy, the Under Secretary, down through the Assistant Secretary. I would say, watch us.

Questions

Mr. Dennis Ferrigno: I applaud the administration with regards to taking projects over the finish line. That is so critical. Is there an impact to budget to be able to either complete what's on the finish line, or close to it? And secondly, with regards to the plutonium consolidation and the complex, as far as what it may do, do you see any forecast of impact to the EM program?

Mr. Anderson: In regard to the first one, that's one of the reasons I talk about establishing a

disposition machine, laying out the key aspects here, disposal of transuranic, low-level waste, D&D of those facilities no longer needed, remediation of soil, and also the 14 sites that I referred to previously. It's a strategy we factored into our budget as far as listing priorities. If there are budget impacts for whatever reason, we would be looking at our overall priorities. You emphasized actually the closure of the sites. There may be some small budget issues about the closure of our sites. I don't think that closure is going to be one the real drivers. I think it's going to be closing out regulatory issues. There are issues on the table that it's easier to talk about when it's two or three years down the road, but when you are actually trying to close out the project,, all of a sudden it gets a lot more difficult, and you've got to keep a strong focus on that.

So I don't see that "budget" will have a big impact there. It will be an impact for not adding anything else to the plate. We want to keep that focus on finishing before we start adding a whole lot more to the plate.

In regard to nuclear materials disposition and consolidation, because you can't talk about one without the other, they definitely have an impact. And you can't talk about the EM program without talking about NNSA programs. We are working hard to try to determine a strategy that has a lot of state equity issues that we'll have to deal with. The costs that come in there obviously are dealing with our design basis threat issues.

We have tried very hard and actually have made a significant amount of progress about reducing material access areas within the environmental management program. We are getting close to having two, and obviously we would like to have one, but that's a big change from something like 13 to 14 a few years ago. That's a huge cost savings. If you can break away from having a guard force and even in a particular site having one MAA reduces a huge cost for transportation. You don't have to be moving the material on a site under high security conditions.

We do get a lot of input. We are trying to factor a lot of that input in, take a lot of data for what the materials are, what the packages are for transporting this material, and what it would take to certify those kinds of packages. And all of it is not created equal. Some of it truly is material that needs to be dispositioned into a waste form very quickly and the other is a much higher, purer content that may be utilized in another form.

Ms. Jennifer Salisbury: You mentioned that your biggest challenge is communications and specifically you talked about communications between EM and your skeptics and EM and contractors. I'm just curious if you can talk about any specific steps that EM is taking to overcome the distrust out there?

Mr. Anderson: The first specific is that this is the first time there's been an EM-1, 2 and 3, and all three of us are communicating. We are trying to understand other people's positions and get people to understand where we are. There is a tremendous amount of effort being spent by Inés [Triay], myself, Jim [Rispoli] and the rest of the Deputy Assistant Secretaries as far as getting out more, talking with people, understanding what the issues are, and getting people to engage in discussion of solutions. We've run into issues where people ask for more money in a particular area. We try to communicate the strategy behind how we have developed our budget rather than just jumping to a number. Is there a flaw in this strategy that we put our budget together that we need to address first? I think those kinds of interactions help.

Ms. Salisbury: I think that's great. Communicating with everybody is really important. I want to emphasize collaboration with your partners and with your stakeholders. It's more than just talking to them and telling them what your strategy is. It's meaningful input where the

stakeholders feel like they're part of that whole process.

Mr. Anderson: Let me emphasize, we're not there yet, but we are working hard at it.

Ms. Lorraine Anderson: I'd like to have a more specific answer as it pertains to communicating with local government at the site and specifically more in the field, between managers and local government.

Mr. Anderson: One of the things we have discussed is that we have not included our site managers well enough as a part of the corporate team. We are taking steps to make that better. We should communicate first with them. They are on the forefront with the local and state governments. And a lot of times we don't arm our site managers with a broader corporate view.

One improvement is that we're going to be going through the overall strategy with our site managers about our budget development. Typically, that hasn't happened until a budget is released and they hear it just like everybody else. They get questions they don't really understand because they haven't had the opportunity to ask those questions, digest, or collaborate on it ahead of time. We have less than 50 senior executives managing a \$7 billion business. And that includes all of the site managers, the site assistant managers and senior people. They are part of the corporate team and we have to make sure that we continue to emphasize that and work that in action.

Ms. Anderson: At some sites, the local governments are getting form letters rather than a personal telephone call to the mayor or a telephone call to the county commission. Communicating back and forth is a simple thing, but it would go a long way to helping the credibility of DOE and working with the local community.

The question period was concluded as Mr. Anderson was called to an urgent meeting and excused himself.

Mr. Ajello introduced Dr. Inés Triay, EM's Chief Operations Officer, to provide a Site Operations Overview.

Site Operations Overview

As the Chief Operations Officer, all of the field managers in the complex report to her. Dr. Triay summarized what she is trying to accomplish day-to-day at EM: embrace all the concepts of acceleration. However, EM also needs project management rigor in order to deliver on time and on budget, and have an operation that is safe, secure, and fully compliant. But implementation is never that simple, or easy.

In terms of operational challenges, one is how to finish a cleanup. At Rocky Flats, the General Accounting Office gave us a very good review, and cleanup is going to be ahead of schedule, under budget. We have to take the lessons learned from that cleanup and apply them to the other cleanups.

The second issue in the big picture is what to do with the wastes. Some waste is mixed low-level wastes, transuranic waste, remote-handled waste, and high-level waste. For some of the liquid waste, we have to treat it and remove the highly radioactive high-level waste and disposition the remainder as low-level waste. We have a path forward in South Carolina and Idaho. We don't have a path forward in Washington State. We still don't have a path forward for remote handled

TRU waste. The Environmental Protection Agency has approved remote-handled waste, waste characterization, but the New Mexico Environment Department is now looking at the current modification and we are hoping that we can open the pipeline for remote-handled waste next year.

Our program is “the world’s number one largest cleanup program.” We start with high-level waste, go to transuranic waste, low-level and mixed low-level waste. Is plutonium a commodity or a liability for the United States government, essentially? That’s what is at the heart of this decision. Ultimately after you disposition the waste or deal with the nuclear material in a manner that you are going to, how is it that you are going to deal with anything that is left behind like the contaminated water and the contamination and decommissioning of surplus facilities. Remember that our path forward was to send MLLW to Hanford. The State of Washington passed I-297 which essentially prohibits any waste importation into Washington state.

There has been nuclear material disposition and consolidation for a meeting that has been formed at the highest levels of the Department to deal with exactly what are we going to do with the plutonium as well as the uranium. And when it comes to the contaminated soil and contaminated water, the question is, how effective some of the technologies that we are applying, for instance, they have the Hanford site to prevent contamination from reaching the Columbia River, how effective those technologies are and will be.

So that’s just to give you a snapshot. This is what we have to deal with and these are the problems that we have associated with each one of those areas.

Questions:

Mr. Ajello: Budgets for technology development have been scaled back. Do you feel, given the challenges that you identified, that there is adequate funding for this effort?

Dr. Triay: I think that we can make a lot of progress with the resources that have been identified. The National Academy of Sciences published an interim report on the solid waste processing at the Savannah River site. And they actually encourage the Department to invest in research dealing with waste removal. So, I think that you are going to see a focus on using our resources in the most focused and efficient manner to go towards the development of any technologies that we need.

You can always use more research dollars. Having said that, I think that the country has tremendous needs right now in other areas as we all know. And those needs are getting bigger in some of these other areas. So for that reason I believe that it is incumbent upon us to try to think innovatively about how we are going to spend the dollars that we do have in terms of solving those problems that have the highest risk. And the things that can wait or are not as critical to resolve right away, that we do not kind of spread our resources around, but more focus our resources towards the highest waste problems.

Mr. Allred: One major challenge is work force restructuring. Do you have any comments?

Dr. Triay: The Assistant Secretary believes that our people are our biggest asset. So I think that you are going to see him paying a tremendous amount of attention to what is going on there and weighing in on how best to press forward. We must be careful to ensure that we can attract the best talent and make sure that our people have the best training

At this point in the discussion, Mr. Anderson returned with news that the A-76 study and competition for EM activities had been cancelled.

Mr. Ajello: What was the rationalization for the cancellation of the A-76 study?

Mr. Anderson: One factor is that there is already a significant reduction in the environmental management work force. The second is we examined some of the issues we have with executing our projects. We looked at the need for increased engineering oversight, increased project management oversight, and increased contract oversight that we need to have. It's not a matter of just numbers of people, but also making sure that we develop the skills in contract management and acquisition. We have a lot of new acquisitions coming up and a lot of new acquisitions just awarded that we have to execute. When you look at the skills that the study was looking at, it is just not the right thing to do.

Mr. Ferrigno: Can you address, in light of risk reduction and in light of technology application, as well as budget issues, WTP?

Dr. Triay: We know that there is an absolute need for the Waste Treatment Plant to come to completion. The only thing that we are doing is revamping the project management controls so that we can deliver the project for a given dollar amount. That is a big-ticket item. Can we deliver the project on a schedule that is agreed to between the Department of Energy and obviously the President and the Congress?

Mr. Thomas Winston: You have federal disposition options, you have commercial disposition options, there's transportation components related to that. There are regulatory components and there are, maybe first and foremost, political considerations. What is your game plan in terms of integration? How do you achieve that integration both internally and externally? And when I mention externally, one of the challenges the Department has is having a high visibility and high transparency. Stakeholders want to know what is the overall picture and how does my piece of the puzzle fit into the overall picture? There is this thought of, am I being treated fairly as a local community or as a state and how can the Department build that transparency that gives people a clearer picture of where they fit into the overall national challenge?

Dr. Triay: Almost on the first day the Assistant Secretary asked, "Do you guys remember those waste disposition maps?" And he pulled them out and gave them to me and to others that were in the room. And I think that is the exact point you are trying to make.

In other words, we need to be transparent, but also forthcoming with: this is the extent of the problem and these are the options that we can use to actually disposition this waste. And I think that he was thinking about the waste disposition maps as a tool to be able to do exactly what you are talking about. I believe that one of the things that needs to be done is to try to figure out whether the states can assist us in trying to figure out the extent of the problem. How do we truly solve it?

Mr. Winston: When people feel like they are part of the decision-making process and they share the burden of the ultimate success of the decision, they are better able to be receptive to some of the pain or some of the difficulty that goes along with that particular decision.

I appreciate your comments and I would also say that you led one of the more successful efforts in terms of shipments to WIPP. You were an open book. I really would encourage the Department to do the same across all levels of waste management. And even in the bigger picture

of how the various pieces and parts can be integrated.

Dr. Triay: I believe we are making progress. We are done with the spent nuclear fuel in the K-Basins at Hanford. We have removed them all. That is a huge accomplishment. We have removed all of the nuclear material from Rocky Flats. We stabilized and packaged all the plutonium and residues at Hanford. We removed all the Plutonium-238 from Mound and sent it to the Savannah River site. We have done a lot of work and we are very proud of what we have accomplished.

Concerning liquid waste, what concerns us is the 88 million gallons of tank waste in three states, South Carolina, Idaho, and Washington. We have cleaned up all the tanks at Idaho. We have made a lot of progress in the Office of River Protection. We are removing the waste of Tank 5 at the Savannah River site this week. We are making progress, but in this particular case we have had huge legal and regulatory setbacks over the years. And we believe that in South Carolina and Idaho we are now on the right path.

Those waste determinations in South Carolina and Idaho are part of Section 3116 framework of the National Defense Authority Section Act. The process in 3116 gives NRC a consultation role with the Department of Energy. It takes some time before all of the issues with the assessment of the performance of the waste which is to be left at those states. South Carolina and Idaho can actually be clearly demonstrated. Even though we are still self-regulated in this area, we now have NRC in a consultation capacity.

When it comes to the transuranic waste, all of the transuranic waste from Rocky Flats has been removed. Having said that, what we have in front of us is the remote-handled waste. That is the next big milestone for the Waste Isolation Pilot Plant (WIPP). We think that we are going to be able to open the pipeline in 2006 to start bringing remote-handled waste to WIPP, pending regulatory approvals. Our order of sites disposing of remote-handled waste at WIPP: Los Alamos [National Laboratory (Los Alamos)] first, then followed by Oak Ridge and perhaps after that Idaho. We need to integrate that very carefully, because remote-handled waste requires very expensive and elaborate facilities and we have the facility built at Oak Ridge. At Los Alamos, we already have some waste that is in the canisters prepared for disposal at the WIPP site.

We have removed all the transuranic waste from ten sites. In six of those cases we moved the waste to another site so that we could certify it and send it to WIPP. In four of those cases we really removed it and put all the waste at the WIPP disposal site.

In regard to safety performance, the Assistant Secretary has a very succinct statement that he likes to make when it comes to safety. He says that no schedule, no milestone, no cost consideration justifies any injury to our work force. The Assistant Secretary has tremendous respect for our work force and understands that it is our biggest asset. And in addition he feels strongly that safety, security, compliance and project management discipline are some of the things that he would like to leave as a legacy. With good performance also comes an extremely good safety record. And I believe the reason is that when you have good performance it's because you have a well-managed project. And when you implement the principles of a well-run project, you see that in the safety performance and in all of the aspects of the work.

In regard to Rocky Flats, we are extremely grateful to all of the states for also doing their part. We understand that this is a huge success and we definitely owe it to this body right here that I'm addressing as well as all the states that collaborated with us in removing the material and accepting the material for either storage or final disposition. 2,000 transuranic waste shipments

from Rocky Flats were completed. A large amount of low-level waste went to either commercial facilities or the Nevada Test Site. And the plutonium went to the Savannah River site. One of the lessons learned is that we really need to take a holistic approach. The states need to own the cleanup. This is in the state of Colorado, this is their cleanup as much as it is ours and I think that that is one of the recipes for success.

We are very proud of our transportation record at the WIPP site. We have an extreme focus on transportation and transportation safety, not only in terms of the packages that we utilize at the WIPP site, which the Nuclear Regulatory Commission must certify, but even in the cases where the Department of Transportation certifies the packages. We employ extreme care when it comes to certification of the packages as well as our transportation record.

We definitely want to pay an extreme amount of attention to our work when it comes to disposing of wastes in commercial facilities. Our goal is zero incidents. We believe that the discipline that will be a part of our charter here under the leadership of Assistant Secretary Rispoli is going to improve our record.

Ms. Salisbury: The transportation program is a model program. I just hope you will continue looking at that program as a way to track other programs. The states and local communities really want to work with you. I want to congratulate the Department on its willingness to work with states.

Dr. Triay: I agree with you. I think that focus will continue.

In regard to completion of the cleanup of Rocky Flats, Fernald and Mound, I can assure you that we are extremely focused on meeting our commitments in 2006. I am sure that you have read about some quality assurance issues we have had with the hazardous solid waste Environmental Impact Statement (EIS) at Hanford. We are in the process of assessing the extent of those quality assurance issues, and the solid waste EIS is part of legal action between the state of Washington and the Department of Energy. We will be looking very seriously at how to take into account the concerns of the state of Washington and create a path forward for dispositioning of the waste.

Regulatory issues prevent the closure of liquid waste stacks. We do have a path forward in South Carolina and Idaho. It is taking some time to try to figure out how we are going to implement Section 3116. In Washington we do not have a path forward and we need to resolve that problem.

In transuranic (TRU) waste characterization and shipping we have a milestone for 6,000 cubic meters to dispose of transuranic waste from Idaho to the WIPP site by December 31, 2006. We are evaluating whether we are going to be able to meet that milestone. Right now we have disposed of about 2,500 cubic meters against that 6,000 cubic meter milestone. The facility is now fully operational and is capable of throughputs that would result in as much as 20 to 25 shipments per week of TRU waste from Idaho to WIPP. I have full confidence that those 6,000 cubic meters will be removed from Idaho and disposed of at the WIPP site.

Los Alamos is responsible for a lot of the material at risk, at Technical Area 54 and Area G. For that reason we are committed to trying to remove about 2,000 containers of transuranic waste from Los Alamos to WIPP to deal with reducing the amount of material at risk.

When it comes to the TRU waste regulatory framework, we have a friend at the New Mexico Environment Department for remote-handled waste. We already have the approval from EPA, so

one of the milestones in 2006 would be to open the pipeline for remote-handled waste.

Part of what the Assistant Secretary has asked me to do is to make absolutely certain that all of the sites we have validated baselines, we have certified Federal Project Directors (FPD) and we have a very clear chain of command when it comes to the FPDs and the field manager. We do not want the compliance with project management to be something that one does as a paper exercise.

At the conclusion of the discussion, Mr. Ajello called for a short recess.

Break

At approximately 10:30 a.m., Mr. Ajello introduced Mr. Mark Gilbertson to discuss End States.

End States Presentation

Mr. Mark Gilbertson, Deputy Assistant Secretary for Environmental Cleanup and Acceleration, provided an overview of the End States process. Mr. Gilbertson summarized the key tenets of the End States Approach. These are:

- Develop alternatives to current site cleanup baselines focused on long term risk reduction
 - Shift from managing risk to reducing risk
- Align protective and sustainable end state with planned future land uses and consequent exposure scenarios
- Ensure remedy evaluation and selection actions consider future land use and risks incurred while getting to a cleanup end point
- Conduct ongoing public involvement and dialogue
 - Iterative process with ongoing regulator, tribal government, and stakeholder input

He then summarized current activities. End States documents have been generated and coming in. The most recent ones received are the Portsmouth and Paducah End States Vision documents. The Hanford document is being currently reviewed here. And the Savannah River document has been sent to us. What is important to recognize is we heard at the Chicago meeting how we need to kind of shift from a nationally driven kind of program to really focus on the site-specific program.

Mr. Rispoli is going to continue to emphasize the line-management concept where site managers are responsible for these kinds of activities. And I think that is consistent with the direction that we went in with End States - to get site managers and site people more involved with the development of these particular documents.

It is important to recognize that what we are doing is using the existing regulatory frameworks to try and implement the End State vision and the use of alternatives so we are not trying to develop a whole new process.

The following is a summary of the status of the End States Vision documents:

Complete	Draft	Exempt
Argonne East Brookhaven Fernald Nevada Offsites Oak Ridge Reservation Pantex Sandia	Hanford Idaho LBNL LANL Nevada Test Site Paducah Portsmouth SRS	Mound Rocky Flats West Valley

Idaho is a big one that we have out there that we do not have a draft yet available. We expect to get that in the March [2006] timeframe. We just let a new contract at Idaho. The contractor has just let a new baseline. It's in the best interest of that particular facility and site at Idaho that this end state vision be developed with this new contractor on board for the particular site. So that's why that particular document was delayed. At the same time, Idaho has some special independent groups helping DOE. The CRESP organization has been involved with our organization to work on issues. Although we don't have a large vision document yet for Idaho that cuts across the entire site, what we do have is a couple of key targeted areas to clarify and make more transparent exactly where we were with regard to the technical and human health kind of risks associated with addressing those activities on the site.

Mr. Gilbertson summarized EMAB's January 2005 findings:

- Draft findings on End States sent to EM-1 in January 2005:
 - Tailor a collaborative effort for each site and build in flexibility
 - Field offices should be the lead to develop confidence and trust with stakeholders
 - Collaborate with stakeholders, local governments, regulators, tribes, and workers on each sites' End States Vision document
 - Look at potential options/tradeoffs between community and site managers
 - Need to have a "business case" for each site and fiduciary responsibility for site managers
- EM-2 agreed with EMAB draft findings (8/1/05 memo)

We look forward to your final recommendations on End States.

We went back to the sites and really asked them to engage their stakeholders real time on these particular documents. We asked them to take the time necessary to build those kinds of relationships as we move forward. EM has taken advantage of several forums, including the Chicago workshop, panels at the Waste Management '05 conference, intergovernmental meetings, and the NGA Federal Facilities Task Force to encourage dialogue about the issues.

We continue to encourage the sites to look for risk reduction opportunities. We are very encouraged about the push that Mr. Rispoli has put in place to have baselines in place. This allows a focal point for discussions for projects and activities.

Dr. Triay mentioned the 3116 process. It is a process where we've engaged with NRC to look at the disposition of materials that are being left in tanks. There are performance assessments that are being developed to look at the risks associated with leaving some materials in those tanks.

Those are being put up on web pages or are being put out for public comment. Our meetings with NRC are all being public noticed and held in open forums.

In addition, the National Academies of Sciences has been directed to study high-level tank waste issues. Public meetings have been held at Richland, Savannah River and Idaho. And the Department is going to get the views of [site-specific] advisory boards and technical experts on these complex issues. These kinds of dialogues are ongoing as we move forward with our process.

We need to have a business case for each of the sites. I think you can hear in the initiatives that Mr. Rispoli is putting in place that we will be allowed to do that. If we put the rigor that he wants into project management, we'll be able to move forward to in a more transparent way to conduct those kinds of discussions and pull those kinds of things together for the program overall.

Mr. Ferrigno: When we looked at the recommendation for you to consider a site End States manager accountable at the local level to carry that mission through, what were your thoughts?

Mr. Gilbertson: We have an entity for each one of our projects that's called the Federal Project Director. Instead of making somebody responsible for End States in and of itself as a person, what we are trying to do is get folks who are involved with the review of project documentation to sit in on meetings where their projects are being discussed and trying to build that into projects and activities. We didn't view that there should be a special kind of person established at each of the sites.

Mr. Gilbertson noted that EM is addressing many stakeholder concerns on a site-specific basis and working with specific sites and regulators.

Ms. Anderson: Do you have any specific examples of what you just talked about at any of the sites?

Mr. Gilbertson: A classic example is the hot spots at Rocky Flats. They did not present risk to human health or the environment. But through an ongoing dialogue at the site with regulators and people we cited in the contract, we decided to address those kinds of things.

There are other sites, such as Mound, where there is an ongoing dialogue where there is a debate that includes, federal EPA, congressional people, local people at the site, the mayor and others to try and decide what makes sense there. Each one of these determinations that I talked about for the tanks at Idaho and for the salt waste processing facility in Savannah River are individual discussions where we're talking about End States, we're talking about institutional control, we're talking about what's going to happen here in the future, what are the nature of these materials and the risks. There are many specific activities going on at a project level, a site level

Mr. Ajello: I think this is an important point because so many of these sites despite a lot of investigation and work by all involved present unanticipated challenges once you are in the middle of a plan. So, unless that dialogue is ongoing you won't have a forum to discuss changes that no one could have seen at some earlier point in time.

Mr. Winston: Every DOE cleanup I know is very, very dynamic in that there's constantly new information coming in, whether it's from excavations that occur, from monitor wells, sometimes new technology. And so, part and parcel with that is a continuing opportunity to revisit things or take advantage of opportunities. Does the End States project help or hurt those natural

discussions that are taking place?

Mr. Gilbertson: I agree that this is a very dynamic kind of process. I think the constructive tension is that you have to have some kind of baseline or point of reference to talk about. And you need to also precipitate a discussion of alternatives. And yet I think you are correct in saying that can't be the end all, be all, but it can be a one-time deal and that's the only time that you do it. But the issues need to get out on the table also. And you need a mechanism to make that to happen.

And so whether or not we really bumble through that whole process, it did force the Richlands of the world to get out and talk with their stakeholders about some of those potential future directions for that particular site and where things were going out of a construct of just the regulatory frameworks of the NEPA, CERCLA and RCRA processes, which are much more focused. So our challenge is to maintain a dialogue and allow it to evolve as necessary.

Perhaps End States should be done. And maybe we just use other tools like project management and the critical decision kind of framework to allow us to talk about it and continue the dialogue. But the dialogue has to go on in some way. And maybe we botched it so much because we are so strong in the front part of it that we have to continue to back off from a discussion of End States. But the discussion of what it's going to look like is critical. What are we leading to here? What are the risks? What are the intruder scenarios associated with this?

In those frameworks are really some fruitful discussions about how long can you assume institutional controls? Is it 100 years, 500 years, 10,000 years? Does this tank really go away? We assume for wildlife purposes after X period of time this stainless steel tank goes away. And then we release this load to the system to model for risk. So people really need to understand the kind of conservative nature that's been built in some of these analyses and decision-making processes that allows us to come to the conclusion that this is in their best interests from a risk perspective, from a public policy perspective, from a stakeholder perspective to leave those materials in place.

So we've got to figure out how to talk about it some way. And the project management plan work is a strong kind of way. We need your feedback. If we are too far gone on End States so that it's not constructive, then let's not do it.

We are pushing with the EPA, NRC and others about some of these issues. These are our key issues that the workgroup is looking at. We may not resolve it this year, but we need to continue to have an ongoing dialogue associated with these kinds of things.

DOE is not alone in dealing with this issue. We talked with DOD folks and the issue of base closure and local communities. They cleaned up the base according to the regulatory requirements and after base closure local communities are saying, well, we want to use it for something different. So as a nation, we are not the only ones with these kinds of problems that need to be discussed. We are trying to elevate some of these so we talk across federal agencies.

Mr. James Barnes: One concern with End States is that the baselines that are being developed could well be considered End States by stakeholders, which would cause significant controversy. How do you reconcile this?

Mr. Gilbertson: We need to develop the baselines, validate them, make the process transparent, and have a discussion. We can't repeat the mistakes we made at End States with our baselines.

So that has to be clear to people. And now the policy and procedures are being developed, we are getting our tools in place for this administration and I think that is wise kind of counsel to give to people to figure out how the stakeholders are going to be involved in that process so that they understand it and have a chance to be involved.

Mr. David Swindle: To effectively manage any project, you have a baseline. And if you have changes that come as result of the discussion from End State, then that's a change to your baseline. And if there is a constant change, the baseline is constantly changing, which means that that you really have no baseline. It's hard to execute and meet deliverables and be counted on from a reliability standpoint.

Mr. Gilbertson: Field office managers need to use all of the tools available to them for these kinds of discussions. Because they don't just happen around baselines, they happen through discussions on NEPA and CERCLA actions, they happen through discussions and interactions with state and local governments and inside advisory boards. Making people responsible and restoring some of the importance of line management, can facilitate some of these processes so that when we talk, we talk in a constant kind of voice in that we have the ability to manage this. With that I will just stop and answer questions.

Questions:

Mr. Winston: I'm on the End States Working Group and we have not started discussions. It's my understanding we are waiting direction from the Assistant Secretary whether that is an effort that should be robust and moving forward.

Mr. Gilbertson: We are trying to schedule a briefing with the Assistant Secretary to make sure we get an endorsement from him as to how aggressively he wants to pursue these activities.

Mr. Winston: I'm not criticizing that at all, but don't anticipate the working group coming out with the answers to those questions. They haven't necessarily been given an aggressive charge. At Fernald, things worked out in spite of, rather than because of, End States initiatives. The job was a lot harder, in my estimation, because of the End States controversy.

Mr. Ajello: Doesn't the working group meet once a month on the phone?

Mr. Winston: We have conference calls. We have been given a briefing on the Savannah River End States. But we haven't really done much heavy lifting other than sort of just stay focused on what's happening in the End States, which there are things happening at the site level based on some of the planning that was done some time ago.

Mr. Gilbertson: We believe that we can make future progress in that area now that we have EM-1, EM-2, and EM-3 in place. And that was part of why we were treading water in order to reach out to other federal agencies rather than at a kind of career manager to career manager kind of level which we have kind of done. The issue is whether or not it's going to be an administration kind of initiative, what the ramifications of that might be and what we need to work and build that support.

Mr. Ajello: Is it your sense today that site managers feel an ownership of this issue, and related to that are any of their performance or metrics duties, if you will, graded on a personal level or group level associated with this topic?

Mr. Gilbertson: There's a DOE policy associated with it. So there is some level of ownership with regard to it and significant resources have been committed. Is it a highest priority for a field office manager? No. They know that they're responsible for it and have to move forward with it, but they're not driving it. It is not part of their performance elements and standards.

Mr. Ajello: Are they even resourced sufficiently to take this up, or is really the heavy lifting done here? I know the division documents emanate from the site, but...

Mr. Gilbertson: It really depends on the site. Some sites have infrastructure in place like the Richland site to do this kind of work. Some sites like the Paducah and Portsmouth sites, it's a stronghold with regard to the federal staff that are in place and with the fact that they've had changing contractors there as part of the struggle. Idaho is in a similar situation.

Mr. Ajello: Are in many cases the work under this topic done by the contractors and reviewed by the federal folks locally, or the other way around?

Mr. Gilbertson: Both. In some cases it is done by federal people and in other cases, some of the larger stuff, the base work is done by the contractors working with the federal people to accomplish it.

Ms. Anderson: I'm wondering if this shouldn't be part of the contract to engage the stakeholders? Wouldn't that be part of the contractor's job to engage that community and to have some dialogue?

Mr. Gilbertson: I think that we believe as federal people responsible for the cleanup at these sites that that's a critical component of our job. And we would use the contractor resources to help facilitate that, but we wouldn't give that responsibility to the contractor.

Mr. Swindle: One of the things that prevents reaching a true End State is when change is constant, it's a perpetual motion machine. And in the federal budgeting cycle you've got about a three-year window. You plan, submit budgets, recycle and the time you get into an execution phase you're basically spending money on activities that were planned three years ago. My question is: when do you freeze the dialogue? Because we've got to move on.

Mr. Gilbertson: That's why I really stress the issue that we need to look at this on a project-specific kind of a basis. You're dealing with a soil remediation, groundwater situation, you can freeze a project at what the nature of your characterization activities are going to be, then decide on your alternatives for how you deal with it. You can freeze that after you perform that cleanup activity. There are decision points that allow you for logical kind of times to say, this is all I'm going forward; this is what I believe is the path forward with regard to that activity.

We need to keep in mind that these aren't typical construction projects. They are one-of-a-kind projects. And so, you can perhaps go a longer duration and treat it more like a project activity that you build out with it and that you bid out with End State in the schedule in mind. But we also need to recognize the situations that we had occur at Mound where we thought soil contamination just went so far that we started digging there and found out that it went farther. But there needs to be some lessons learned built into those processes. We went in initially thinking about near-surface kind of removal, but now we are in a situation where we're digging this material way below where there would be exposure. And so maybe if we were smarter going into it, we would have an approach more like Rocky Flats where we put a level kind of constraint. So there's a balance here between using good project management and defining things and also

dealing with the information associated with the uncertainty of environmental cleanup and what that means.

Mr. Swindle: At the end of the day a program is measured upon what it does succeed in terms of its delivery. It's part of its customer orientation, meaning Congress, the stakeholders and the like. During the past four years we've seen many starts and stops as almost as there's been progress. And that does not help. Again, in building the stakeholders' support that there is actually progress being made.

Mr. Gilbertson: In some cases, EM jumped in the middle of some of these activities. There was never a common understanding when we started some of these ongoing projects of where we were going to end up. If we're good project managers, maybe we push a little harder at the start of a project to define what that end point is so that we can define this project. It's hard to talk about it across the \$7 billion a year program, so you've kind of got to dig down into these individual projects. And so I think we're stressing the right tools and I think that the right principles are being put in place. But I think it is wise to caution people about the pitfalls as we move forward about some of the things to be sensitive about. That's why we invite you to help us.

Roundtable Discussion

Mr. Winston: Jennifer [Salisbury] and I were asked to lead a roundtable discussion. A lot of folks external to this Board are waiting for the Board to say something about End States. I know the working group is. I know that the participants for the intergovernmental meeting in November which includes local governments, state governments, and citizen groups are saying, well, what does the Board think?

In November of 2003, we issued six recommendations with a lot of detail to them. That was sort of in the thick of the End States initiative and the public discussion of them. There were several common themes: adequate and meaningful interaction at all levels; realistic and appropriate, yet conservative assumptions; consider a broad range of factors once you get an End States recommendation whether or not you want to implement it. Because you don't want to do something that in the bigger picture is defeating to your overall mission. And then finally noting that there is significant distrust out there of the process and that had to be taken into account.

Many of us participated in the October 2004 workshop. And as an outgrowth of that we did have a working session back in November of 2004. We ended up coming up with five recommendations. I'm not sure if we acted on those in any official capacity. And then individually, Board members tried to put some meat on the bones of the recommendations and came up with the January draft letter. It was an effort by Board members individually to say, if we wanted to give some recommendations to the Department on, for example, tailored, collaborative effort for each site and built-in flexibility, what would that look like. And so that is where we are.

And I guess I would like to have a discussion about what do we want to offer to the Assistant Secretary at this point? Do we want to continue to offer more details on how this program ought to be implemented, or do we want to step back and say, not necessarily do you move forward or do you not move forward? Obviously the Department has to move forward. Do they occur under the auspices of End States? Do they occur under the auspices of a remolded End States? Do they occur under some sort of other structure that we may give a different name? What is the best way strategically for the Department to have beneficial discussions at the site level?

While we had a national program to get us to this point, probably a lot of the future successes are going to be dependent upon the site, the specific technical and regulatory challenges at the site, the interaction with all of the stakeholders at the site, and the timing that probably plays into where the site is in the cleanup process.

So before we get into deciding whether we take our January letter and finalize that, I would like to have a discussion in terms of what we think would be a strategic piece of advice to give Mr. Rispoli.

Mr. Ajello: Our recommendations remained in draft form.

Mr. Winston: And the reason we did it in draft form, there was a lot of specificity that an external board may not necessarily want to interject without some feedback from the Department. We are telling you how to do your business and we haven't discussed the ramifications of that. That's not terribly helpful advice. So part of this was sort of the precursor for continuing dialogue on how to deal with the issue at hand.

Ms. Salisbury: Would you like the Board to discuss whether we even want to make any recommendations on End States, or has the situation evolved so much we just need to step way back from it?

Mr. Winston: I think we need to make a recommendation on End States. I think I would say that our January effort was dealing more with how to implement it. And I think I would like for us to have a discussion first about the bigger picture. Taking into account all the work that has been done to date, and there's a lot of good technical work that's been done, and then there's also some baggage. And I think we all know that that exists and so we are at a point in time we have a new Assistant Secretary. We are able to take a fresh look at this. He has the latitude to set a new direction and I think we have the opportunity to help with that.

My first fear is I don't want to lose the good work that has occurred as part of this process. So I don't want to just sort of let this all die and not have us at individual sites take advantage of the work because somehow or other we have judged End States project to be a failure. It's a mixed bag and there are successes and certainly problems with what has happened. My second fear is that we will continue to try to force a square peg in a round hole. And I do think that some sort of different perspective or a different approach would help assure that the kind of discussions that this Board wants to see happen at the site could occur. And if we just sort of say, well, we'll continue to go down the End States path, I'm not sure we will get much out of it. I think we'll lose the opportunity and be constrained by the baggage that's been associated with what's transpired.

Stakeholders recognize that this is a dynamic situation at a cleanup and that there is an obligation to continually improve the product that the Department of Energy is delivering to the nation and to the communities and there's a willingness to look at those issues.

I guess I would probably be recommending that the effort continue, but that certain components such as some of the national work be pulled out of the project. The sites should be given both direction and latitude to assure that this is built into their normal processes of regulatory interactions, stakeholder interaction and not have it driven at the headquarters levels by lofty expectations.

Specifically on End States, the Board was asked to review the Board's findings from last September's meeting and to review the End States site vision documents as they became available.

Ms. Salisbury: We should go forward with End States.

Mr. Ajello: No question, yes.

Mr. Winston: The site is in the driver's seat over making that determination. By "site" I mean DOE, the stakeholders, the regulators, the contractor. They would be able to determine whether there is fruit to bear.

Ms. Salisbury: Is the site-specific approach to End States sufficient?

Mr. Swindle: It's a good step forward. What is missing, however, is some terms of reference for guidelines. It comes back to some practical solutions. Whether that's done through the End States process, or recommendations that the Board could provide as an adjunct to what's already been done. I'm not disagreeing that it needs to be pushed down to the site levels. But there are so many different sites with different personalities involved, we'll end up with so many different perspectives that then it will create another national debate. Again, some standards have to be there.

Mr. Ferrigno: The End States challenge really takes on the best of management and leadership. Management deals with complexity. Leadership deals with change. Both are needed to address this issue. The End State sets the very fabric of compliance, given the baseline of compliance to regulatory requirements. It sets the very fabric of a vision of a site. My feeling is that we need to not only deal with the complexity of the project, but we need to lead, as a stakeholder forum, in moving forward to risk reduction. Of course, we will see by March or April [2006] if the true fruit is what we think it is.

Ms. Anderson: How do we make those kinds of decisions and how do we quantify those decisions? One of our Rocky Flats' coalition of local governments members said it quite succinctly: "I can't tell my constituents about 40 picocuries per gram and how many cubic yards it covers; it is too complicated for me to do that. I just want it cleaned up. Just make it go away." But as one of the site people said, how many of these do we go after? So there is that balance and it's hard. But clearly there has to be a way to quantify this or we'll escalate the cost. So I can speak on both sides of the issue.

Mr. Allred: The problem with End States as it's been developing at the headquarters level is it gets people involved in philosophical questions. It doesn't necessarily happen at the project level or at the site level. At the site level you've got the ability to look at specifics and make decisions. When those decisions are being made, there is going to be a baseline and the baseline, I hope, is not interpreted as the End State, because if it is, it will be very controversial. But that baseline is very important because without the baseline, you'll never get an end. There is never some place where you stop.

So with regard to the recommendation, I think to continue to have a headquarters emphasis on End States, per se, is not constructive. However, we need a path forward and a vision -- avoiding the End States word.

You are never going to be successful unless you have a vision at the site and have with it the

kinds of metrics that you can judge performance on.

Public Comment Period

Mr. Ajello asked for any public comments.

There were no public comments.

Continuation of End States Roundtable

Mr. Ferrigno asked Mr. Allred to clarify his earlier statement that we won't call it an End State at the site, but still set a vision, set a strategy that is collaborated among all stakeholders, and then allow that vision that we have for the site to be carried forward, and then as a result, the site can manage the baseline and execute the work that was derived from that vision of the end use.

Mr. Allred: To expect consensus is not realistic. And there are people who in the end have to make decisions. And they're from both DOE and within the regulating community. But it ought to be with full public knowledge and input. You need the ability to make decisions, and those decisions have to be done in such a way that they are accountable, whether it's regulator or DOE. So I think you've got to do it at the site level, so it's accountable.

Ms. Salisbury summarized the discussion. There seemed to be consensus to go forward in some way with the process and perhaps not call it End States, but that there be some vision document that evolves from a collaborative process with stakeholders. Once that is agreed on, the sites should be given some guidelines, so that the managers can be held accountable, but at the same time that they should be given the flexibility to tailor solutions to the specific site. We should also encourage DOE to continue the national work that has to be pulled out from this process. The three examples from last October were the groundwater points of compliance, the institutional controls, and the long-term stewardship that requires a national dialogue. And those policy decisions need to be made before sites can go forward with some of these issues.

Mr. Winston: The End State Working Group was hopefully going to give some advice to the Department on the process. Some of the issues are very, very complex and incredibly difficult and involve people well outside the federal government or even regulators, and involve many private entities as well. Sometimes there's a whole history of regulatory or technical decision-making that is embodied in the current approach. And to pull that out and to sort of change that, we're certainly not going to solve that in the End States documents at the site level. What Paul Golan [former Principal Deputy Assistant Secretary for EM] did was pull these issues out and say, we'll deal with that at the national level. Well, some of those are very difficult for DOE to deal with because they are not even under DOE's domain. They're broader than DOE. These issues are going to be difficult to solve and solving them under the End States umbrella just makes it more difficult rather than easier

Mr. Ajello: There's a theme here that End States is something that's integrated within the other activities to some degree, or at least can't be broken apart.

Mr. Winston: Maybe it's time that certain aspects of End States get integrated back. We take advantage of the technical work that's been done, and even the political or discussion type work and we find ways to integrate that back into something that has a higher chance of bearing fruit.

Mr. Ajello: It's a little squishy otherwise.

Mr. Ferrigno: It's more than just integrated. If truly we're going to set regulatory compliance first, but then those decisions of the site as far as what is going to be the end use, where is it going, that's not just integrated. That's driving it. Then once we have consensus of the driver, then you have the execution to go to where the End State is.

Mr. Ajello called for further discussion during the lunch break and asked Mr. Gilbertson for any final thoughts.

Mr. Gilbertson: Mr. Winston's comments about DOE policy on risk based End States and the issue of pulling back a little bit, and recognizing new tools and their directions, and the vision for where the policy is taking it and integrating it through those new tools and directions, I think is an important message. I think you don't want to lose what progress has been made. Use End States to not lose site-specific kind of direction. We are going to continue to interact on a federal level on these issues because they're important to where we are going. We don't have a lead for a number of these issues. But we will still be interacting with NRC and EPA.

The issue of reviewing the specific documents should be in the context of feedback to the individual sites. And I think that to provide input to Idaho or other sites as we kind of go forward with this might be beneficial. You need this kind of information for your projects to decide where you're going and to make sure ask at the right decision points are in time to keep you on the right track. But maybe it's not End States.

Mr. Winston: There was a policy statement that each site would be doing...

Mr. Gilbertson: DOE 455.1. I will leave a copy of it with you. Obviously this is still going to be in force. So it will be part of how we manage our projects and activities.

Mr. Ajello recessed the meeting until 1:00 p.m.

Lunch Break

Contract Strategy and Management Presentation

Mr. Ajello reconvened the meeting at 1:15 p.m. and introduced Mr. Barry Smith, Director of the Office of Acquisitions Management.

Mr. Smith: I come to this job with 30 years of experience with the Department of Energy and its predecessor agencies. I'd like to share with you today some things that we've learned, more particularly over the last five to ten years, where we moved away from a standard M&O type of contract and started looking at contracts that might be more appropriate for the work scope. This is important as we move forward for a number of significant acquisitions we have in the planning stage right now.

We've learned that there's no one standard contract that fits all activities at our sites. Some contract vehicles are more amendable to uncertainty than others. We have tried over the last five to ten years experimenting to some degree with contract types and getting feedback on what makes sense as we move forward.

Management and Operating Contracts (M&O). This is a contract that the Department used for many years from its inception. It was typically with a single contractor was given a

generalized scope of work as well as an opportunity to earn a fee on a subjective basis with the award fee process.

We are moving to a scenario where we have a fairly good idea of how long a facility or a site is going to continue to operate and we are really in the business of cleaning up and closing sites. The M&O contract doesn't necessarily provide the best vehicle for doing that. We've moved to a stance now where we think it's appropriate for some things like infrastructure, site services and things that are ongoing in nature. It's very flexible. You can change work scope within the contract fairly easily.

In terms of acquiring the contract itself, it's much simpler than some of the other contract types that will be discussed later. Its advantage is that it tends to provide for a single interface for safety contract project management and not have a duplicative overlap of multi-contractors on the site.

What we have found is the government basically assumes all the risk in these contracts. The contractor is not necessarily motivated to be innovative in how they approach their solutions. They are in a cost-plus environment. They will get reimbursed for what the costs are.

So we have found that there are other contract vehicles that provide a better opportunity for us to maximize both schedule and cost savings. For example, the Savannah River is an M&O contract. It's been renegotiated in its extension to be more performance-based. The existing West Valley contract is such, as is the Oak Ridge.

Privatization Contracts. We had a wave of privatization contracts about five or six years ago. It offered an opportunity for fixed price and term. It also offered an opportunity to have a commercial entity front the costs of acquisition. And in many cases the acquisitions were facilities that were fairly expensive and pushing the budget at the same time.

The disadvantage with this contract is that it's not responsive to uncertainties. If there are changes in requirements, albeit regulatory requirements or design requirements, they are fairly inflexible because they are a firm, fixed-price bid. We have had some success with fixed-price contracts. We've had some less than successful performances with those as well. Contract examples are Foster-Wheeler at Idaho, TRU Waste Treatment at Oak Ridge and at Pit 9, which was not as successful as we had hoped.

One success has been the Glass Waste Storage Building at Savannah River. It is a \$55 million construction project - firm fixed-price. It is ahead of schedule at this point and under cost and probably will be completed and operational sometime four to five months early. If you understand what it is you're building and the uncertainties, if you can narrow it down, it's an excellent vehicle for moving forward.

Mr. Ajello: Does the contractor own this facility?

Mr. Smith: This particular one, the contractor does not own. Others are privately owned, but the Glass Waste facility is a government-owned facility.

Mr. Ferrigno: Why is it referred to it as a privatization?

Mr. Smith: We referred it in a generic sense. It's not in the same category as the others. It's probably better characterized as fixed-price construction.

Ms. Anderson: Does the contractor share in cost savings?

Mr. Smith: The contractor in this respect did not share in cost savings. His cost savings was getting off the site earlier.

Mr. Ferrigno: When you typically have these fixed-price contracts like in the commercial sector like mining plants or whatever, you have a performance basis and you have a test and acceptance period in which the plan complies with all of the requirements that have been predetermined for the performance. Is that similar to what you are doing here?

Mr. Smith: Pretty much. The way the contracts work, there are certain progress payments made against the capital acquisition costs to the contractor and then at some point you are paying the contractor for product put out the door, unit price per kilogram or cubic meter. So they are a little bit different.

Cost Plus Incentive Fee Contracts (CPIF). The third contract type that I would like to talk about is really the one that we're trying to move in the direction of. These are cost plus incentive fee contracts. We have tried to structure them against our closure sites, in particular Rocky Flats, Mound, Fernald. The two other examples were more recent additions, River Corridor and Idaho.

The advantage of this type of contract is that the End States you want to achieve are established for the contractor. And if you have a clearly defined End State like closure, like completion of cleanup at Rocky Flats, you can define that very well. You can then go in and ask contractors to come in and give you a proposal for how they are going to do that. And the Kaiser-Hill proposal for Rocky Flats is a successful demonstration of that concept.

Clearly the advantage is the contractors come in and start thinking more broadly about how they can achieve closure without being told how to do it. And the fee structures are set up to provide the opportunity to earn significantly more fee if they can bring the cleanup in under cost and ahead of schedule. And at some point there's a breakpoint where the government actually shares in cost savings with the contractor.

Those have been successful contracts, we believe, for the sites that we've applied them to. I will tell you that there is a disadvantage. The disadvantage that we have in getting these contracts in place is that you have to know fairly precisely what the End State is. You need to clearly understand to some degree, in a baseline fashion, how you would do that work so that you can put together an appropriate schedule and an appropriate government cost estimate. If we find that it's just not possible, given regulatory uncertainty, given some uncertainty on End State, it becomes much more problematic to use this vehicle without assuming significant risks on both the contractor's side and the government's side.

Mr. Ajello: How many dollars are using this technique?

Mr. Smith: It varies year to year.

Mr. Ajello: They are obviously going to be the more mature projects?

Mr. Smith: They are the more mature projects. I think last year we awarded River Corridor. Hanford was awarded last year or year before last. These were large contracts.

Mr. Mark Frei: The 2005 budget is around \$7.32 billion. I would say maybe four billion.

Mr. Smith: The other risk disadvantage is typically these contracts have a funding profile built into the contract as a government-furnished service and item. So we have to deliver the item. Rocky is a great example where we fenced off funding for that as a closure site. And every year Kaiser Hill knew they were going to get approximately \$660 million. We have not been that successful, for example, at River Corridor or Idaho where we're not fencing off and getting the money. And so we have to be careful that we put these contracts in place and can deliver the funding to the contractor so they can get the work done that they plan to get done.

Mr. Ajello: Otherwise contractors take appropriations risks. So how do you actually promise them that you are going to get appropriated for the money?

Mr. Frei: You have the right language in there so you aren't deficient.

Mr. Smith: This is not the quickest mechanism because the government needs to establish funding profiles, establish work schedules, include work force restructuring issues and pension benefits issues. So it is a significant investment of time to get this kind of contract placed.

Mr. Ferrigno: When you say "the investment takes time and significant resources" are you utilizing DOE resources, or are you utilizing [Army] Corps of Engineer resources?

Mr. Smith: We are moving to using DOE resources, certainly the SEBs are all resourced out of the federal personnel. We are trying to move to a federalized cost estimation process. For some of the recent IDIQ contracts which I'll talk about next, we use government contract cost estimating. For more complex jobs, for example Savannah River, we have not ruled out some augmentation by say the Army Corps for specific pieces of cost estimates.

We do need to move to sound project management principles which include establishing capabilities to do cost estimating or at least understand what that is. I would say that we are not well positioned yet as a federal agency to do that. And until we are, we may on occasion need some help from the Corps on specific pieces.

Indefinite Delivery, Indefinite Quantity Contracts (IDIQ). The last type of acquisition vehicle that we are using is an indefinite delivery, indefinite quantity contract, called IDIQ. It is a contract that has been placed with 22 qualified companies to do waste management, contaminated D&D and non-contaminated D&D. The vehicle went in effect about a year ago. We haven't marched out as smartly on getting contracts out on IDIQ as possible.

These generally involve smaller work scopes. But there are principal advantages. It's a task order kind of contract. You have people pre-qualified, you put out an RFP or an RTP (request to proceed). You get back an expression of interest, a technical approach, and a cost estimate from your pre-qualifieds. You go through the process and make a selection. We are currently evaluating two IDIQ contracts now. And I would say that from RFP to contract award is typically one to two months, which is a much faster process than we typically had.

One of the things that we are trying to do is to increase use of IDIQ by taking a look at segmenting work. Rather than approach, for example, the D&D program at a large site as an entire entity, we are asking if there are pieces of this job that we could split off that were logical choices for work scope that we could turn to an IDIQ contract. It's faster, it may be cheaper, it engages small-business or 8A contractors. So it helps us foster our small business procurements

as well.

We have two that are pending right now, Ashtabula and SPRU. We hope to make contract award on those fairly soon.

Mr. Ferrigno: Have you found in utilizing these contracts the interaction with an existing M&O contractor? Originally these are cast as the hammer contract, if they can't get it done, we'll bring somebody in to do that. I'm sure that was more of the industry saying that than DOE, but how do you find sharing budgets or any lessons learned?

Mr. Smith: We've only awarded one. So these first two we'll challenge them. We'll see how those interfaces work.

Mr. Ferrigno: Is the money coming from existing budgets at a site for an M&O contractor? Did you pull that and reallocate it or what?

Mr. Smith: Yes. They're within the contract work scope and that work scope has been sold out of contracts. I think we'll have to see how it plays out. The more significant concerns that we've had programmatically is these are contracts primed to DOE. And DOE is going to be doing much of the coordination for the contract work in the safety area, security area, and other areas. That's not a typical role the Department has had.

Lessons Learned. The principal lesson learned is the establishment of a credible scope, cost and schedule baseline. If we can't do that, we really can't define what it is we want. We have had some problems in the past in making sure we had all the work scope wrapped. Making sure that we really understood what the government was responsible for providing in the contract versus what the contractor is responsible for. We need to be rigorous about understanding what those are and their ability to deliver.

The second point is Mr. Rispoli and certainly the Secretary want EM to run itself as a project. And they want to make sure that we are using the project management principles that are delineated in the order, which are just good, sound project managing principles, the first of which probably is establish credible scope, cost and scheduling.

Then we need to manage risks of the unknowns. Our contracts had what we call "government furnished services and items (GFSI)." They were things that we said we would provide to the contractor on a certain date. They require people in the federal government to own those. We need to own that GFSI to make sure it gets delivered on time. And we need to do a better job at making sure that we deliver those things that we said were important to the contractor.

We want to make sure that our RFPs are clear and they're concise. We want to make sure that RFPs are consistent from Section C to Section L and Section M, those being the scope of work and the instructions for preparing a proposal and how you evaluate them.

On our source selection process we need to engage our source selection officials and our SEBs, chairs and boards. We need to get our SSOs and SEB squared away quickly in the procurement process.

We have done a pretty good job lately of establishing integrated project teams for some of the upcoming major acquisitions. They have been working scope issues, safety requirements, and acquisition strategy concepts. And we need to do keep feeding back lessons learned. We need to

make sure we foster communication among chairs and boards and so forth.

Near-Term Acquisitions. We have a number of major site contracts that expire in September of next year, including the Savannah River site, the Fluor Hanford contract at Richland, and the ORP contract with CH2M Hill. The West Valley project contract is slated to expire in December of 2005. There's ongoing work in every one of those procurements. We have integrated project teams working for West Valley. We have selected the SSO and the SEB chair and they have worked on the acquisition strategy.

Mr. Ferrigno: You had one-on-ones for Savannah River. What were the results of that and have you gone through any public disclosure as far as what you are going to go through?

Mr. Smith: We had one-on-ones with 30 companies. The idea behind the one-on-ones was to solicit input from potential and perspective bidders. And we had large and small companies. Each one comes to the table with an idea of what makes sense for this particular scope of work. We've taken those inputs and grouped them internally and given them to these groups that are developing acquisition strategy and trying to bounce those off against our ideas of what work could be split off. We're looking at what elements could be split off and be given to a different contract vehicle, for example a lab contract.

We haven't shared with the public what our acquisition strategy is yet. And we won't do that until the RFP hits the street. We are probably one stage up on the request for proposal, which will be the first time that the public will see what we want to do. .

In summary, we have made some strides and we've stepped forward some. And certainly we haven't been successful with some of the initiatives as we would like to have been. Competition drives what you are going to do. If you don't have competition, you're not going to get as good a price or schedule or innovation as you have otherwise. We think that contract vehicles like CPIF afford that opportunity and we would like to use those where it makes sense to do so.

We need to make sure we have sound project management principles that we utilize in developing acquisitions, awarding contracts, and then monitoring execution to make sure that we stay on them.

We need to make sure that we have the proper focus on regulatory requirements. We need to try to make sure that we have engaged all of the influencers - political, community, and others - that affect your ability to do work. And we need to make sure that we keep pushing for funding to accomplish the tasks. It's going to get more difficult given the strains on the budget that we're likely to see in the next couple of years.

And from the first to the last I'll reemphasize, we've got to analyze each scope of work. We don't have in mind one particular contract type. We think there is a mix that makes sense and we'll continue to evolve those.

Questions:

Mr. Ajello: I had a question about "cycle time." Always striving to do things faster and cheaper and getting these RFPs out the door and limiting protests. Are there specific initiatives around those approaches or is it that all of the things that you've said contribute to improving the internal process?

Mr. Smith: I think it's the latter. I think we are cognizant that we need to make sure in protest space that RFPs are very clear on what's required. And we need to be very sure that our evaluation of what's required is only focused on what's required. And we are trying to build that back in through lessons learned with SEBs.

In terms of looking at RFP cycles, time cycles, we are look for improvements, but at the same time we want to make sure that we have enough planning in the cycle to make sure we get good cost estimates, schedules, and particularly definition and scope of work. We've just got to keep chipping away at it.

Mr. Winston: I am very familiar with both the Mound and Fernald projects, and we've been very pleased with the CPIF and that's probably the biggest fundamental change that impacted meeting the 2006 dates. It was credible and you were able to show that the dollars were being well spent. To the extent that that concept can be applied, it really does bear fruit in the field. And I applaud the Department for that and also urge the Department to consider some of those barriers that make it difficult at other sites, because it really does have a significant impact on results.

Mr. Swindle: In November 2003, the Board had a working group that dealt with contract and program metrics. Going through the presentation, it tracks very well with our findings. It's refreshing to see that reflected from the Board's work. But also just good common sense within the Department.

Over the past couple of years, the Department shifted radically at a couple of sites, particularly to look at small businesses and M&Os or the equivalents of essentially an integrated contractor, specifically to portions of Paducah. Some of those are still tied up in protest. Senator Domenici had put forth a proposed amendment to legislation that would look at requiring DOE and the SBA to come together to come up with a more effective small-business strategy.

Regarding acquisition strategies with small businesses that do not necessarily have the infrastructure, tools, and resources, have you rethought some of that strategy and how have those lessons learned been reflected in some of these recent proposed legislative examinations?

Mr. Smith: The responsibility for doing that in the Department was given to our acquisition office as well as the small business unit within the Department. We have not been actively engaged in the development of the MOU or in the actual plans. We have been in contact with the Small Business office about lessons learned. For our acquisitions, we have a process where we negotiate within small business goals. We are in the stage right now of going back and forth.

Mr. Allred: When the SEB makes a recommendation generally it has a certain understanding of what the scope of work was upon which it made that recommendation. How do you assure that that level of understanding is available when at the site level questions come up about what the scope of work was? Is there a level of continuity between the understanding of the SEB upon which the recommendation for award was made?

Mr. Frei: Typically, the contracting officer [representative] who is serving on the Source Evaluation Board (SEB) lives on in post-award space as the CO for the contract. Theoretically, if he or she has been paying attention and has developed Section C, the scope of work, he or she can carry that understanding forward. Typically, the technical member on the SEB comes from that program or project office, and then becomes the program or project manager after award. There is continuity on the contract side and the technical content side, although probably not 100 percent of the time.

Mr. Smith: By in large, one of your board members will be someone at the site level who is familiar with work scope on a day-to-day basis. In addition to the board members themselves, there's a series of technical advisors who then go back to work, generally site employees or federal employees who go back to work post-award who have an intimate knowledge of what the work scope was or what the contract says. I think we're getting better at it. I think the bigger issue is whether both the contractor that's been selected to the Department have a mutual understanding.

Usually in the evaluation criteria EM includes a demonstration of the understanding of the scope that's usually the largest part of the evaluation and the resulting score. That understanding is there from the get-go. Then typically we are now requiring a baseline that the contractor has to turn in within 60 or 90 days after award, based on their proposal. They don't get a chance to go back and revisit what they proposed and come up with a different approach. We want them to submit what they proposed because that's what we signed up for in the contract.

Mr. Allred: But if you haven't had that continuity going through the system, somebody new is not necessarily going to interpret the same way as the original contracting official has done.

Mr. Frei: Let's take River Corridor as an example. The SEB chair is the assistant manager for River Corridor. One of his technical voting members was the program manager who is supporting that. The assistant manager and the CO on the SEB is the CO for the contract. So you can't do any better than that.

Roundtable Discussion

Mr. Swindle: Concerning the emphasis on improving project management skills, the Secretary issued a guidance memorandum that emphasizes this as a career path and has set some hard deadlines for certification in acquisition. Where does EM stand in terms of the number of certified Federal Project Directors? What are your goals? In May of 2006, is that an integral part of your strategy from a contract management perspective? And do you have adequate assets in order to administer and manage the contracts?

Mr. Smith: Relative to your questions on the certifications numbers, we'll have to get that data for you. That's done in the human resources group outside of the contract acquisition work.

Do we have sufficient numbers to execute contracts that we placed? I think the answer to that probably is not completely. We have made certification progress, but we are not there yet. And I think Mr. Rispoli, in carrying out the Secretary's desires as well as his own, will probably establish some timelines and take whatever actions he needs to get Federal Project Directors served.

Mr. Swindle: We as a Board in looking to provide advice and counsel to EM-1, I know I certainly remain concerned that there's sometimes political expediency to maintain employment levels at sites, sometimes at the expense of the most efficient way to work. I know that's dealing with human capital questions. Some staff has shifted to the contracting side, but, I think that remains an impediment for the Department making some of the successful moves forward.

Mr. Ajello: We are about to experience, perhaps the largest peacetime rebuilding effort that we've had in a long, long time with the devastation in New Orleans and east Texas. There's going to be demand for good resources from the contracting community. It's probably too early

to tell whether this is going to have any effect on EM getting adequate resources for contracting, the best people, et cetera. I just really wonder whether or not we're going to have constraints. Does anybody have any thoughts about that?

Mr. Ferrigno: Not only the devastation, but also we have an energy battle going on. The fixed fossil plants that are on alert and the potential of new nuclear facilities, it's not hard to suck up a lot of good engineers and designers. And a lot have retired and we are not feeding the pool.

Mr. Ajello: At my company, we built and acquired \$7 billion of projects over three years ending about two years ago. We had trouble getting some of the resources that we needed during 2001 to 2003. Now, we are facing issues around environmental remediation and other things that we need for compliance purposes. Also, we are likely to need more refining capacity in this country. We are going to have to go look and find natural gas wherever we can get it and permit it. All of these things are going to happen in the next ten years and it's going to be a serious issue and constraint. We have 2,000 people in operations and engineering and 55 percent of them are more than 50 years old.

Mr. Swindle: Where is the EM human capital development plan for retention? How do you retain the assets you've got? The Corps of Engineers may potentially be expanding, for a five-year period, up to four times its size today. This is the same pool that DOE draws from. Part of retention is also competing in a tighter market. And that is going to be a concern. I think it's also going to have a tremendous impact on small businesses. Some forward leaning in the fox hole for EM would be a worthwhile endeavor perhaps even through the contracting side or through the EM-1, 2, 3 management change.

Mr. Ajello: I know Mr. Rispoli has said it's one of the big issues. He's interested in reaching out to some of the academic institutions and other organizations that can restock the program.

Mr. Ferrigno: Companies have "A" performers and "B" performers. We are in a capitalistic society that gets highest return so you're going to put your "A" performance team and the other "A" performance team and the other "A" performance team, then all of a sudden you are not going to be getting the "A" performance team. Companies are going to go to where you get the highest rate of return. So from the acquisition strategy, what does it mean to DOE.

Mr. Ajello: You've been using incentive fees that I guess historically range from 2 to 12 percent, maybe closer to ten on the average. Given the risks that some of the contractors and some of the contract formats are requiring, is that sufficient to get the best and the brightest when those firms can go into other opportunities and get 15 to 25?

Mr. Smith: I think the CPIF contracts we've awarded have a higher end fee available. I think we've seen pretty good performance.

Mr. Ajello: So there's a correlation there?

Mr. Smith: I think we see a correlation. We've got to be competitive.

Mr. Swindle: It certainly happened on the NNSA procurement for Los Alamos. They almost had no one at the party. Then the fee requirements changed significantly and firms showed up.

Mr. Ferrigno: A comment on timing with the one-on-ones. Most companies in the private sector have a limited amount of dollars oriented towards business development and proposals, B&P.

Generally the larger the company, the more advanced notice for designation of developing a strategy to pick your targets to where you are going to invest. If someone needed to wait until the RFP came out on such a large size procurement, is the Department limiting itself and limiting the potential field of competition without giving some real good advance notice so people could try to cut into those B&P dollars and reserve funds to go into your strategy?

Mr. Smith: The challenge for the Department is to move quickly from our acquisition strategy to the RFP as fast as we can so that we maximize the amount of time available. Until we lock in on the acquisition plan and get concurrence, it's premature to contact industry on what the strategy is going to be. And that's the risk. We could change strategy at the last minute. We could figure that maybe we didn't as clearly understand what that particular strategy component was going to deliver and change our mind at the last minute. I think that might create more confusion than it resolves.

Mr. Ferrigno: I'm concerned from the Department's perspective of not getting an aggressive response because it may be too quick where people don't have the funds, especially if it's a small business.

Mr. Frei: In some cases we use draft RFPs.

Mr. Swindle: Where is EM from a standpoint of performance-based contracting? There's a lot of that going forth on Department of Defense type contracts.

Mr. Smith: Let's say we don't wind up with a CPIF contract on some particular aspect of work. We are a little less certain about some of the things that need to be done in the work, so we decided to issue another contract that is an M&O type contract. At a minimum we would put performance-based elements in that contract, much like we did when we negotiated the Savannah River contract. We would identify the specific pieces of work we wanted done and then write the incentives for contractors achieving some End State.

Mr. Ferrigno: One of the comments we've discussed in acquisition strategy discussions was the issue of risk. When we deal with a site closure, the risk includes a lot of things including the issues from stakeholders. I would be curious on where we've developed that risk analysis as a standardized risk so that way when we are doing the evaluation from site to site to site there's some commonality.

Mr. Frei: I believe that will come up in our next session.

Mr. Swindle: It's good to see the progress that's being made. And there certainly are still a lot of challenges ahead for the Department and for EM overall.

Public Comment Period

Mr. Ajello asked for any public comments.

Mr. Willis Bixby: Do you really have the resources to handle four major procurements at about the same time? Or do you have a sequence plan laid out for those?

You talk about the West Valley RFP coming out soon possibly, you talked about the SSO and the SEB chair haven been selected for that. You've gone through a public process on Savannah River where you've gotten public input, are you going to have a similar process for West Valley

in terms of public input before the RFP comes out?

Mr. Smith: The second question first. At this point in time we do not anticipate having an industry session on the West Valley contract. The working group is assembling an RFP. That's as much as I can tell you right now. Hopefully we will move it along as quickly as we can.

The resource issue, are we in a position, assuming your question is focused on the federal work force issue, to support four major acquisitions at the same time? It's a challenge that we've had some discussion about. We are going to have further discussion with Mr. Rispoli within the next week or so. We are canvassing our system for identification of people who have served as SEB chairs, who have served on SEB boards, or been board members themselves. If there's a resource issue that suggests that we are not going to be able to accomplish that, we will have to look at the sequence of acquisition. But right now our plans are to try to pursue them all.

Mr. Swindle: If the acquisition strategy at Savannah River or Richland is broken up, then it's more boards?

Mr. Smith: Right. It could be.

Mr. Ajello called for a short recess.

Break

Mr. Ajello reconvened the meeting and introduced Ms. Karen Guevara and Mr. Jay Rhoderick to discuss Project Management and Oversight.

Project Management and Oversight.

Mr. Frei, Deputy Assistant Secretary for Business Operations, explained that within EM, all project management and execution is split in terms of roles and responsibilities. Ms. Guevara oversees project planning and controls which means running the change control board and implementing Project Management Order 413, including baseline development. She serves on the Federal Project Director Certification Review Board. She manages the front end of the planning projects. Mr. Rhoderick deals with projects and baselines: how are we doing on execution space. He's responsible for the independent reviews that validate what we've done on baselines.

Ms. Guevara: EM has two types of projects: operations funded projects and construction projects. EM is the only program within the Department of Energy that is applying DOE Order 413 principles of project management to operations dollar projects. Other programs, such as NNSA, the Office of Science, and Nuclear Engineering, only apply the Order to construction projects. EM has 77 operations funded projects and six ongoing construction projects.

Project Baseline Summaries (PBSs) are what you see in the EM budget requests to Congress. We have PBSs in the following major categories:

- Nuclear Material Stabilization and Disposition
- Spent Nuclear Fuel Stabilization and Disposition
- Solid Waste Stabilization and Disposition
- Radioactive Liquid Waste Tank Stabilization and Disposition
- Soil and Water Remediation

- Nuclear Facility D&D
- Non-Nuclear Facility D&D

EM is not primarily in the job of doing construction projects. We do construction to the degree that we are trying to get our disposition machine in production. These are the facilities that will largely treat a lot of the existing contaminants that we already have in place at our facilities.

Within our project structure and project management application, we use the concept of CDs, critical decisions. DOE Order 413.3 defines what the various phases of a project lifecycle are. They are characterized by these critical decision phases:

- Critical Decision (CD) -0 = Approve Mission Need
- CD-1 = Approve Alternative Selection and Cost Range
- CD-2 = Approve Performance Baseline
- CD-3 = Approve Start of Construction
- CD-4 = Approve Start of Operations or Project Closeout

For all of those operating projects that EM has, we have really skipped CD-0 and 1. The contamination is there. We have been spending money and doing clean up for years. And so CD-2/3, approving a performance baseline and start of construction are for us the execution of cleanup activities. Most of our operating dollar projects have been granted CD-2/3. We have ongoing execution of those projects.

We don't have very many projects that are at CD-4 yet. We have a couple of small ones where we have completed cleanup. I think we are processing critical decision four for the LEHR, Laboratory for Environmental Health Research. We are actually transitioning that site to the Office of Science and so that will be a critical decision four which is to say, we completed this cleanup project and we are now transitioning it for long-term stewardship activities.

Federal Project Directors are a key component of the management structure for how we execute our projects. We have stipulated that our Federal Project Directors report directly to the site manager. Part of that is to simply get the project execution focus at the manager's level. We do allow subproject directors for large complex projects. We do expect them to have contracting officer representative responsibility and to be appropriately trained. This is because our projects also follow very much our acquisition strategy. The project directors are responsible for execution of the project cost, scope and schedule. We have identified a total of 59 of these Federal Project Directors. Again, we allow some of them to manage more than one project. And we are seeking certification of these by a DOE-wide Certification Board by May of 2006.

Mr. Ajello: Do any of these people have delegated authority for change orders? Do they have authority to change scope or approve new projects?

Ms. Guevara: Any increase in project schedule or cost has to come before the headquarters Configuration Control Board. That is just so that we have broad discussion about whether we are going to accept that there is a dollar increase to a project. In some instances based on an examination of facts we determine that it may be a bit premature to actually accept the cost increase. Again, because of the acquisition strategy, sometimes we really also go through the contract process of whether these are requests for equitable adjustment that need to be considered in contract space before provide more money to the project.

Mr. Ferrigno: Are the project costs on your summary sheets capital or lifecycle cost?

Mr. Frei: Lifecycle.

Ms. Guevara: Lifecycle costs. So if it's an operating project it may go out to the year 2032.

Mr. Frei: That's one thing that we're working through right now because what we put together for each one of these is a lifecycle cost, what gets us to the End State. What we are now doing is subdividing and realizing that the Federal Project Director is only responsible for the work scope that's under contract for execution. Some of these PBSs do go to closure, such as Fernald. We do have a suite of them and that's a lifecycle cost, not necessarily what's under contract.

Ms. Guevara: There is a difference between appropriations, or our year-to-year funding, versus what is shown as the baseline cost. We don't change baseline lifecycle costs based on appropriations until we get into a request for equitable adjustment under the contract, or we process a baseline change that says, based on not receiving appropriations as expected, we need to push out the scope of this project.

Mr. Allred: When you talk about the specified lifecycle costs, does that assume a resolution of regulatory issues, or is this independent of that development?

Ms. Guevara: Each baseline has assumptions that the baseline is based on. In some instances, we may have baselines that have presumed resolution of regulatory issues. In other instances the baseline doesn't presume any change to a regulatory baseline. So there is no across-the-board answer.

Mr. Winston: One of my concerns is there is a disconnect between End States activities of EM, the contractor baseline as submitted, the percentage of the contract, and DOE's lifecycle costs. In that if we are open to the public and we assume certain things are to be done, I can't reconcile those three actions. And when we can't do that, my concern is that credibility suffers.

Ms. Guevara: For the most part our baselines are based on the PMPs, the site performance management plans that were done. Whatever assumptions were made in the PMPs typically are the assumptions that are reflected in these baselines. They were very much tied together. So if you are aware of a PMP assumption that gives you concern, then in fact all you are seeing is a baseline that follows that same presumption into project execution space.

Mr. Winston: Part of the concern is that this process has been an internal exercise for the most part. And there is some concern that there may be some disconnects with what has been discussed historically with the public and regulators. I guess time will tell. If there are disconnects, it will add to some of the confusion and distrust that came out through the End States process. That's something the Department can look at prior to moving forward on the baseline.

Mr. Ferrigno: Do lifecycle costs include the funds that are designated as legacy management?

Ms. Guevara: It tends to not be in this list of what EM considers its operations-funded PBS projects because most of those dollars are accounted for in separate PBSs. For example, there are no regulatory community support PBSs shown here. There are closure and post-closure PBDs that tend to contain the long-term stewardship (LTS) estimates. So those costs are part of EM's appropriations request, but we are not doing earned value project management against a long-term stewardship PBS nor against a regulatory community support. So, about 90 percent of EM's dollar costs are captured in this portfolio of project PBSs. About 10 percent are captured outside

and LTS is among the PBSs in that 10 percent to which we just don't apply earned value project management principles.

Mr. Rhoderick: We have a case in point right now at Brookhaven where the soil and water remediation project is going to be completed this week. But there is still long-term monitoring that is done. It's not captured in that project. In going through and doing a CD-2/3 validation, we have teams that are put together to independently evaluate scope, cost, and schedule of the baseline that's being developed in order to execute the work.

In the scope of work we expect each baseline to have a work breakdown structure dictionary that defines how the work is broken down. There should be technical specifications identified for the scope. The regulatory requirements should be defined and established. If RODs aren't already defined, then the baseline should identify the process for getting to a final ROD and how that final ROD affects that work. In the case of not having a ROD, we would expect additional uncertainties and contingencies to be established for that range of values that could encompass the record of decision.

In the cost area we do a bottoms-up cost estimate, looking at how the costs were put together, what kind of escalation rates, et cetera, were used to define the cost. We make sure that it is resource loaded so that all the costs reflect all resources that are necessary. That would also include the federal side as well as the contractor side and the lifecycle funding profile that is reflected in our budget is established.

As far as schedules, we look for a resource-loaded, integrated schedule. That includes all the work. We expect a critical path to be defined. All GFSI activities that the government has to furnish such as disposal sites, many of contracts we supply what disposal sites would be available, and we also look at the earned value methods that would be used to report the earned value information.

We also make sure that the site has a change control process in place. The baseline reviews monthly reporting that we'll go into in depth, but we also check to make sure that the site has all the systems in place to do the reporting that's required.

Ms. Guevara: There are a lot of documents that comprise the baseline. There are also many key project management documents. Many of these documents encompass bookshelves, not a nice neat binder.

Mr. Rhoderick: Sandia, which is a relatively smaller project, is a nine-volume set. Savannah River is 36, I think. But it does comprise a whole series of documents that support the baseline. You can't get a baseline approved without having this documentation in place. For example, the integrated project team charter is crucial to make sure that we have all of the technical expertise necessary to support the execution of the work. It runs the gamut from safety engineering to regulatory identification of all the project team that needs to be available to support the execution of the work.

You will see later on that this dovetails very closely to our contracting strategy and our acquisition strategy. The baselines are all predicated on how the contract is written and the baseline will be executed based on the contract requirements. The project execution plan is another key document that defines roles, responsibilities, and authorities for the project.

Once we have a baseline in place, two of the key areas that continue to evolve during the process

are risk management plan and value engineering. We expect value engineering to be done very early in the process. But we also expect it to be conducted throughout the process. The same with the risk management plan. We require the sites to both have a contractor and a site federal risk management plan because there's a risk to the contractor, but there are also GFSI that usually have major consequences if the Department doesn't deliver on those GFSI. So we require the site to carry a risk management plan. That risk management plan is expected to be updated on a yearly basis, and they are required to report on it on a quarterly basis.

Now, we do lack a policy and procedure in this area and that's one thing that we are developing right now. As we've done our reviews, we have a lot of fluctuation and variation between our sites as far as what they have in the risk management area. But we consider that a key area, especially in the environmental management area where the uncertainties are high.

Value engineering is another area where we bring in independent teams as well as site teams to analyze the logic flow and the systems that are being used to execute a project, looking for alternatives and better ways of executing the work that could reduce our overall costs.

Mr. Allred: When you enter into a cost plus incentive to your performance-type contract, then you would bring the life of that contract through the value engineering?

Mr. Rhoderick: You have to go back to the contract. A CPIF is one where we give a lot more of that flexibility to the contractor. Those are applied more on cost plus. For example, at the glass waste storage facility at Savannah River, which was a cost plus, we did a lot of value engineering early on and that actually saved us \$8 million. So it's very contract dependent.

We have two levels of baseline reviews, one is internal to EM, and we actually review the status of a project at all of the critical decisions, zero through three, with the baseline being validated at CD-2. We do have some projects that are going through a CD-0 stage. So not all of our projects are at CD-2/3. For example, Moab will go through a full critical decision process. Most of our projects are at CD-2 and we have gone through baseline validations for those.

In addition to that, the Office of Engineering and Construction Management, under 413, is required at the CD-2 level to conduct an external independent review. They go through a lot of the same process that we do, but they are outside companies to the Department that have no vested interest in the project. They will also conduct a CD-3 review for major construction projects when we are actually ready to go into operations.

Ms. Guevara: They're evaluating projects to make sure that they are all tied together. That if you identified a risk somewhere, that they're seeing it captured somewhere as a schedule contingency or that it's identified as an unfunded contingency for the environmental liabilities audit. It's just to tie it all together and ensure that what they see in one document translates throughout the baseline documents. Baseline validation ensures that project planning is thoroughly carried through baseline documents, so that the baseline components all knit together into a composite that gives high confidence that this is a baseline that can effectively be executed.

Mr. Rhoderick: The logic with these reviews is we are bringing in outside companies to take an independent look to see if they can validate what we have put together as far as a baseline and a project.

Ms. Guevara: We use project management experts for the validation reviews.

Mr. Rhoderick: In addition, we have the Defense Contract Management Agency coming in and doing an earned value management system review to the ANSI standard for each one of our contractors at our sites.

As far as performance reporting, we have several levels that we do reporting under. My office is responsible for a monthly status report, which looks at six different metrics. In the area of contractor performance, we are looking at their safety record, their earned value, and our gold chart metrics. In the area of contract management, or contract metrics, we are looking at the actual REAs, incentive fees; is the contract working as we first proposed it to work in the execution of the project?

The federal side of it is regulatory. Are we meeting our regulatory milestones, and are we delivering the GFSI agreed to under the contract?

So in the monthly status report you would see a rating for each one of our projects in each one of those areas. The field offices are required on a monthly basis to enter their earned value information into our database system, IPABS, which also goes into the PAR system, which is reported to the Deputy Secretary for all projects within the Department.

Now, as we go through the quarterly performance reviews, we also look at corrective action plans. If we have a project that either on cost or schedule is falling below certain thresholds, we require that a site has to prepare a corrective action plan, identifying what the problem is, what actions are being taken to get it back within costs and schedule, and when we expect that project to be back within cost and schedule.

We have a configuration control board where if the variance cannot be recovered, then a baseline change proposal will come to that board for approval for either a cost or schedule variation. It's not like a site can independently reset the clock as far cost and schedule

Ms. Guevara: The configuration control board deliberates on whether it is too early to simply move the baseline out or whether it really is a valid variance and there is no overcoming it. Instances in which government failed to provide something that contractually we were supposed to are some of the easiest baseline changes to approve. In others, there is validity in holding a project red, if you will, to highlight that there are performance issues and continue to challenge a contractor before we would process anything that delays the project and increases the cost.

Mr. Rhoderick: Another issue is the sufficiency of trained federal resources. When you start looking at the number of projects that we are now submitting under project management responsibilities and requirements, it's vastly different from the other programs that we have within the Department. If you look at our total lifecycle costs that we put under earned value, we are in the neighborhood of probably \$136 billion. The next closest office to us is NNSA and they are applying 413 to \$14.3 billion. So right now there is a big push to make sure that our federal staff that are overseeing these project management systems are fully trained.

In terms of availability of funding per the contract, we have signed quite a few CPIF contracts in the last five years. These have an identified funding profile. When we have rescissions, that ends up being reflected in our ability to actually deliver that amount of money that we agreed to by contract. So that has become a big issue.

That kind of dovetails into the next item. If we were following 413 requirements we would be identifying a contingency that was necessary to execute the project. We have a policy for our

operating projects that contingency, although identified, is unfunded. And so there is sometimes a struggle between our sites in that they realize they can't identify contingency for funding, but yet they should be carrying a contingency under our project management requirements.

Mr. Winston: Does that mean that the safety valve is the configuration control board? I mean, they go back to the configuration control board, but that's sort of a zero sum game.

Mr. Rhoderick: Correct. In one example, we signed a CPIF contract where the original baseline was \$2.4 billion. The contract that was signed was \$1.6 billion with very good incentives to get to that target. That contractor is probably going to come in at about \$1.8 billion. We have some people that look at that as not being successful, because it's over what we signed as a contract. If you were to be carrying actual contingency, you would actually say that that project came in below cost because it would have been below the amount of contingency we would have allocated for that project. So, it's both a communication and an execution issue that we have to deal with.

Mr. Frei: The Secretary's mantra from his own life experiences is that you can't always plan for total success. There are going to be some surprises and some unknowns and even some failures. And his philosophy seems to be that you've got to build that into your budgets. So we are struggling with the fact that for most of our funding the operating projects, policy doesn't allow us to put any contingency in for those unknowns and surprises and failures. So we are trying to sort out how we deal with that. Will the Department let us put contingency in our operating projects? How will OMB feel about it? How will Congress react to it? And should we disguise it as something other than contingency? But that's the reality of it.

Mr. Ajello: It seems to me that contingency goes along with uncertainty.

Mr. Frei: Great example, K Basin sludges. What a monumental challenge to move 2,100 metric tons out of there with conditions that have been there for decades. And to think that we know exactly ahead of time the scope and the amount of contamination and where the cracks are and how much stuff is floating around in the water. It's really foolish not to have built in some upfront contingency for that.

Mr. Ferrigno: We need to also talk about is confidence level. When you look at your risk, if I have less confidence, I'm going to put more funds in. So what we are not talking about is the Department's position on confidence level when you are doing your risk post-mitigation

Mr. Frei: Typically, what we would like to get to under 413 is an 80 percent confidence with government funding. The contractor in his contract may have just 50 percent. We will put contingency in our line item project to get us from 50 to 80 percent confidence. That's a good number. What we're seeing on the operating side is whatever the contractor puts in is it. So we may be operating at a 50/50. That's the problem.

Mr. Allred: The baseline you get from a contractor, he's priced it with contingencies, so that's in there?

Mr. Rhoderick: I would hope so, yes.

Mr. Allred: What you don't have is your contingency above and beyond that?

Mr. Rhoderick: Yes, we make a separation. What the contractor has is major reserve. And we

would expect them to have that. For example, we routinely see it when we go out to validate a baseline where they have actually pooled money into a separate fund that they use to allocate if they're not able to hit costs on a specific WBS.

Mr. Frei: I imagine, if in fact we had this nice contingency amount in each and every one of our operating line items, that would be the first thing that would come out.

Mr. Rhoderick: For that project we went ahead and identified to an 80 percent confidence level, what we would need to execute that project and the number that was unfunded was \$280 million. So in essence that project is coming in \$80 million less than what the project costs. The contingency that was identified with that project was \$280 million. That was unfunded.

One of the problems we end up with many times is trying to manage to a lifecycle baseline. We end up really managing to an annual baseline. Because if you're not getting the funding, then you reset the clock.

Concerning roles, responsibilities and expertise of contracting officers, we have been running out of them. Retirement has hit us hard. And we are stealing from one site to cover another site. Especially in the world where we've gone more to small business and IDIQ. It's become a crucial area. And if you've seen Secretary Bodman's policy on project management, he's emphasizing the training of contracting officers.

Mr. Ferrigno: If I'm closing a site and let's say I complete three sites in 2006, would not the requirements of the federal staff that are on those sites diminish and wouldn't those folks be available for reassignment?

Mr. Rhoderick: Yes. And we have created a cadre out of our consolidated business center that does exactly that. But you have the situation where you have individuals that may have been at that site for a very long time, are near retirement age and decide rather than move to another site, they'll retire. Or in the case of contracting officers, we are not the only ones that are looking for them. FEMA is now looking for a lot of contracting officers. So it's not like this isn't a marketable job. One of the reasons why we went to the PBS structure was to try and link more of our project management execution, PBMs, to actual costs incurred. I wouldn't say we're there yet. I think we're farther along than other programs, but we continue to look at the linkage between using performance measures to measure progress and the actual costs incurred.

Concerning lessons learned from recent projects, don't wait too late in the process to get lessons learned out of a site because the site people are already gone. This happened at Rocky Flats. We lost people at Rocky a lot quicker than what we thought we would. So we are trying to gather lessons learned prior to the last year of the project. We did end up getting some very large lessons learned out of dealing with glove boxes, D&D buildings, especially dealing with plutonium that we've transferred to other sites like Savannah River.

Ms Guevara: Clearly the waste treatment plant at Hanford is another project having tremendous difficulties, and we must effectively learn lessons from that project in terms of what earned value and our project management systems showed or did not show us about some of the underlying issues that were going on in that project.

Mr. Swindle: One of the unique features of Rocky was this incentive completion clause which had a big high potential payoff if the milestones were met or exceeded. If I recall correctly, the monies were not available at the time the contract was signed because of the inefficiency issues

and so forth, that if the contractor was successful at the End State and you had this big upside, how did you handle the fee? Was that held as a contingency number or did you have to budget?

Mr. Rhoderick: It's been budgeted.

Mr. Frei: In the case of Rocky, the system was smart enough to realize that rather than paying fee as you go, how about if we instead use that fee for more cleanup? That was an exception to the case. But in general we pay them some provisional fee under Section B of the contract and we hold most of it to the end.

Mr. Swindle: From an accounting standpoint, you've been able to basically put that in a reserve or whatever and basically not treat it as a contingency?

Mr. Frei: Correct.

Mr. Rhoderick: Another issue: the evolving and undefined End States and how they affect our baselines. We are actually going to go back to a Critical Decision-1 for those two reactors because we're just to the point now of signing an End State for both of those and they will be different than what we first assumed. So that is definitely an issue that we have.

Areas where EMAB can assist? First of all the whole area of contingency. How do we approach that issue given the situation that we are in with OMB, and clearly with Katrina and Rita it's going to be tighter. OMB is less likely to set aside some contingency money.

Ms. Guevara: Practically speaking, when we encounter difficulties, the EM most often extends the project end date. If we have enough time, we can build a cost increase into a subsequent budget request to request more dollars for that particular site for that particular project. I think clearly on the Waste Treatment Plant we are going to be in that mode where we realize that we have to request additional funding. We do not yet know how much of a cost increase that will be.

Mr. Swindle: But you do distinguish between fixed price versus cost plus. Cost plus is where you have the managed reserve.

Mr. Rhoderick: The vernacular that we use, contingency is something that would be held by the federal government. Management reserve is something contractors use to manage their scope of work and execution of that work.

Mr. Ajello: Why don't you establish more of a contingency under their contract that you would have otherwise put on your side of the ledger and manage that separately?

Mr. Frei: Here is where we apply the lesson learned. I was the SSO on FFTF, still am. In the last amended RFP, we asked contractors to bid with an 80 percent confidence level. So now part of the SEB's job is to ask, are they fooling us or not? So we're looking at the Monte Carlo runs with crystal ball simulation and making sure we believe that contingency because we have to make cost reality adjustments to do our job on evaluation. But then we know that whoever we're selecting has built pretty high confidence in there and has the contingency or management reserve built in. That's probably something we need to do in some of these upcoming acquisitions, so we're not selling ourselves and the taxpayers short thinking we're going to get something for this price.

Mr. Ajello: If your flex point is not contingency, just moving out the schedule, but nobody is

estimating the working capital and the financing costs of these projects. The contractors may be building in some working capital costs, but Uncle Sam has to issue bonds if the project takes two years longer to raise more capital to fund these budgets. So this is the only enterprise I know of where you don't consider capital in this.

Mr. Rhoderick: If we identified in a contract that they would have 4.3 million cubic feet of soil to deal with and they end up with six, that's an REA, that's additional costs, and we don't have the contingency to cover that.

Mr. Allred: Is it important to fund that or just to identify it? The problem is, if you don't identify it in your cost model as a contingency and you don't want people using contingencies, then it's awful hard with some risk percentage. Then you have an awful hard time holding your managers responsible for performance, whether it's funded or not. It seems to me it's more of a management issue. If you don't fund it, then you are going to go long on annual funding. I don't know how you would manage the contract if you don't have a contingency in there. If the basis on which you are holding him responsible changes, how can you hold him responsible for it?

Mr. Rhoderick: You're right. What happens is they submit an REA and then you negotiate. Either the government is going to come up with the additional funds or you're going to slide schedule.

Mr. Ferrigno: I think they're using the capital construction methodology of subject matter experts on some of these operating funds. And they're able to integrate some of the wisdom and gray hair that relates to seeing and anticipating some of these surprises. That's why you used the CD 1 thought 4 approach for your operating budget in addition to 413 that most other agency departments are doing for construction budgeting; is that correct?

Ms. Guevara: Yes, and that's also the concept of the risk management plans. We are trying to ensure the project management behavior of doing a thorough job of assessing what can go wrong and try to stay on top of those risks to mitigate them as they appear, because a risk mitigated is then a contract fulfilled.

Mr. Ferrigno: Where I think that works is when you have a mature contracting organization that has been there before. When you are in a situation where you are contracting with first-time contractors and smaller businesses, I think your risk factor is in being able to pull it off. It will be interesting to watch on some of these larger contracts that are going to small businesses who haven't had the experience base that some of the other contractors have had.

Mr. Winston: I'm trying to understand what the downside is of not having contingency. I mean, obviously in a perfect world it would be great to have it built in. But that's just not the way, as you've tried to accelerate things, as Congress has tried to eek out whatever progress they could out of the expenditures they were given that they were giving you. You could push towards getting a contingency in, but also be careful what you ask for because that may not change your dollar amount at all. At the end of the day you may pat yourself on the back and say we've really accomplished a lot and it's all been within budget. And, yet, some important projects wouldn't get done. I'm really torn as to how to tackle this because there are a lot of competing factors you're dealing in a political situation.

Mr. Allred: It's important that you specify what you expect in a way of reliability of the estimate. So I think your 80 percent, whatever the number is, is important. When I was contracting, I wanted to know what they felt their accuracy was. They were going to give me the higher

reliability I wanted, and what it was going to cost me. But secondly, so I would know how they apply risk. Maybe I don't know what the amount is, but I know how they applied risk.

Then I have to, knowing that they've got 80 percent, if I'm confident that that's what they've gotten, then I've got apply a contingency. I think it's not so important that I fund that contingency, it's what I expect of my people managing that contract that they have to give me confidence that they can manage that within that contingency. And that's really all a contingency is, a level of confidence. So that I can judge their performance based upon what we agreed our expectations were. So I don't think the actual funding dollars where you are drawing money away from some other project is as important as setting that expectation with management as to what they're going to manage to. In those cases then your mitigation plans really have a lot of impact.

But if you set a situation up where someone can only fail, I can guarantee what they're going to do. That's where I see the problem is in not identifying. I think it may well set situations where the attitude is, I can't win. So, I'll take what I've got.

Mr. Swindle: The Department of Defense in their DPW, their public works program, during the last several years faced some similar circumstances, and about 18 months ago changed their policy from a standpoint of how they set up some incentives. For example, in the past when a base had a project for cleanup, improving housing or whatever, they didn't have contingency, but rather management reserve because it was managed at the base level, that any savings that they made went back up to headquarters. So they were disincentivized to be effective. In other words their incentivization was to spend it which played in the hands of Congress, why should I give you contingency money because then you're going to spend it. So, again, it was a double-edged sword.

What they did, I would encourage you to take a look at this, is take a policy shift all the way to OSD and got OMB to buy in, so there's a precedent. Now any of that savings is directly pooled back in at the control of the local base commander, pushing it down from an accountability standpoint where they were incentivized to do more. The point is that they established some incentives that fit the mold of the federal leadership team and applied it.

The second thing: project risk management. Here's the perspective of several of us from the private sector. There are more and more firm-fixed price jobs, which tend to be where the market is shifting in federal contracting. What we and several of the others have done is set up risk review boards. And those risk review boards had participation from all disciplines - HR, legal, safety - and their mission was to identify risk and set up mitigating measures. And the mitigation was how you got that confidence level, you could price it and so forth. Where industry is now moving is to a more formalized basis because the capital markets are requiring it.

Mr. Winston: I'm intrigued by your juxtapositioning of schedule contingency versus cost contingency. I assume that's for your portion of the risk that you're talking about. And given that, what might that look like?

Ms. Guevara: In the end it all looks like cost. Just by extending the schedule, by deferring work scope that we would be doing now, we would defer the end date, but also increase the lifecycle cost as well. You get to a point of being unable to provide enough money now to complete the project work under the existing contract vehicle. So then EM would have to de-scope the existing contract and put off that work scope until the next acquisition. That subsequent acquisition would show what it would cost to get the work done.

In budget formulation space, it's an opportunity for us to consider whether there is any way for us in a subsequent budget cycle to find a way to maybe still keep to that schedule and see what another contractor can come up with. Can they come up with a way to deliver the product with higher confidence than the contractor that wasn't able to do so in the first one?

Mr. Ferrigno: In the private sector, whether it is a version of a software package or trying to meet a market deadline for a product, it takes on a different form than just what translates to cost. And it may mean getting to market at a certain period of time. It may mean complying with certain performance criteria. In the case of EM it could mean milestones that have regulatory impact. I have noticed that the Department and EM speak to schedule, but there has been no teeth put behind it as far as either incentives or penalties tied to delivery dates as opposed to translation of costs. For very specific performance-based deadlines where you've gone to Congress and said, this will be done at this period of time, you may want to put some significant teeth into those schedule deadlines and use the same incentivized penalty type sharing.

You have captured many of the Board's thoughts in your presentation which is fantastic. But one thing that was not necessarily captured is, you're going for budget and you're reporting to Congress on the gold chart metrics. But where the performance-based contracting or the incentivized contracting, where you're going with the current contractors is you're really incentivizing the cost of the facility. And even though they report on the 16 items of the gold chart, I don't see it contractually being put into their contracts.

Mr. Frei: I think it's fair to say in the recent contracts we've had we're factoring those metrics in into the scope of work.

Mr. Rhoderick: You have to look at the individual metrics, the true metrics, the spent fuel metrics, the high-level waste, you will find them in spades in the contracts. When you start talking about volume of low-level waste disposed it runs in the opposite direction of keeping costs down. So you won't see a requirement that a volume amount was put in there specifically because that site had not done any previous characterization. So it was known that when the contractor goes in he's going to be chasing plumes. So the uncertainty as far as how much soil was going to actually be dealt with in that contract was very wide. Our legal counsel wanted to put in a volume amount to specifically cap that risk. So some of the metrics are at one-for-ones, other ones, especially the mixed and low-level waste, you're not going to find that kind of a translation. But plutonium, spent fuel, those track directly in the contract.

Mr. Frei: Savannah River producing X number of cans through DWPF matches up with the metrics - hard metrics. I know how much TRU waste you're getting shipped to WIPP. WIPP - how much you can accept from shipping sites.

Mr. Ajello: So that's a change and improvement from two years ago?

Mr. Rhoderick: Yes.

Mr. Frei: When the time is right, we would like some advice. One of the initiatives Paul Golan initiated about a year ago was that we would develop federal life cycle baselines for all of our sites to capture not only the contract period, but through all the contracts until we got to the end of cleanup. We have been developing guidance and working with the sites for a number of months. We have not yet issued that guidance and the deadline was, I think, by the end of September 2006 to have federal lifecycle baselines in place. I would very much like hear from

this Board what your views are on that. We have not yet briefed Mr. Rispoli, but think he would probably embrace this. But it's something that we've been kicking around for some time. We think it's still the right answer, but I would appreciate your views on that.

Mr. Ajello: We will put it on the list.

Mr. Ferrigno: The only last comment I have concerns the risk analysis. When you had made the presentation of risk analysis you spoke to dealing with risk and it's the incidence, identification scenarios, probabilities, impact, and then mitigation. What I didn't get a clear understanding was, do you then go back and post-mitigation look at the risk analysis, okay, and then at your confidence level are you funding or not funding, but are you looking at management reserve on prior or post-mitigation? In other words, when I go through my analysis I have my risks, my scenarios, my impact, this would be the probability of occurrence. And I would do whatever crystal ball, Monte Carlo, whatever analysis I want with a certain level of confidence and come up with whatever it is. Then I add mitigation that I can either make it go away or take management actions to be able to minimize the potential or the impact. Do you fund and do you look at management reserve on the post-mitigation or do you do it prior to mitigation?

Ms. Guevara: I think we largely identify management reserve prior to mitigation in that it is put in place at establishment of the baseline. We go in and look at the risk management plans as we are validating that baseline, which for the most part is all pre-mitigation. Maybe part of what you're raising are some potential questions to the project oversight questions which has more to do with project risk management documents as living documents in which there is management involvement on an ongoing basis - where are we now, what have we just learned, what do we do from here as a baseline execution effort rather than some of the initial validation that we go through.

Public Comment Period

Mr. Ajello asked for public comment. There was no response.

Adjournment

Mr. Ajello adjourned the meeting, to be reconvened on Friday, September 30, 2005 at 9:00 a.m.

Meeting Minutes: September 30, 2005

Opening Remarks

Mr. Ajello reconvened the meeting at 9:20 a.m. He was pleased with the openness of yesterday's session and gratified to see that many of the Board's recommendations have been put in place on End States, contract strategy and management, and project management and oversight. While yesterday's session was primarily for the purposes of gathering information and getting updated, today will be devoted to formal business. He then welcomed the new Assistant Secretary for Environmental Management, Mr. James A. Rispoli.

Remarks by Assistant Secretary Rispoli (EM-1)

Mr. Rispoli: Mr. Ajello and I talked the other evening about coming up with a norm where after each of your meetings perhaps he could come by to fill me in with one or two of you if desired,

on the things you deliberated in an informal setting, or via a phone call perhaps. I would like to have a very comfortable dialogue. I would like to be at each of your meetings for a point in time. Perhaps next time I could go into a little more detail as to what we're doing in the Environmental Management program. But I am more interested to get your feedback and your thoughts and your advice, and I think that's primarily what we need. We need that type of an independent look.

Mr. Rispoli provided the Board with a summary of his career activities in both the private and government sectors that have prepared him for his current position.

Mr. Rispoli: At DOE my view is that safety is number one. I am concerned that recently there has been a rash of close calls. I had to issue a communication to all the site managers to reiterate that no milestone is more important, no date is more important, no schedule is more important than a person's well being. That I expect that everybody that comes to work every day will go home the same way they came in.

We are doing inherently hazardous work. I believe if you run a safe job site, you will also run a productive job site. The way that you do this is to integrate. You integrate your management, your safety. I have several firsthand experiences with both the civilian and military work forces wherein if you don't integrate safety with mission, you're safety rates are not good. But when you find a way to integrate them, you can greatly improve safety and at the same time enhance mission. And I know that because we've done it and in one of the cases it was even published by an OSHA study at a major university.

I've only been on the job about six weeks. I visited seven field offices so far. I am very interested in meeting our managers and our people, both the federal staff as well as the contractors. It's helped me greatly to understand what we do. I've been trying very hard to carve out the time to get a way to become familiar with the sites in a way that is different than before. I used to be in the Department for five years. But when I would visit before, the focus was on the construction side. And most of what EM is doing does not involve construction. It involves ongoing operations. So it's been an entirely new focus for me to visit and get into and understand these more hazardous types of things that we do.

The mission is not easy. I think it's absolutely critical that we all recognize that. You just need to read the press coverage. And some of our friends from the press are here today and I think they actually do quite a good job in giving us a balanced perspective. The reality is that you may think you have something solved and then you find out that it is really not solved, and you have to go back and figure out why it's not solved. What we do is very complex. I don't really know all of the nuclear things. So last week I went to the Department's executive nuclear training program to try to improve my own knowledge of the issues that we deal with.

What I tell our people is that we are an acquisition agency with a capital "A"; and I don't mean just contracting. Everything that we do, we buy. As far as I know, there is not one EM fed that's out there with a shovel or working a bulldozer. We are buying a very, very technically complicated and complex product, which is clean up and remediation and disposition. We need to do a better job in acquisitions of a very, very technically complex product. I want to elevate to the DAS level the acquisition function. Right now we do have technical people at the deputy assistant secretary level. We have HR people, human capital people, and we have budget people. We have safety, but we don't have an acquisition DAS. And to me that's very important because when you are dealing with acquisition issues and acquisition strategy, at the very inception you need to have an organization that can make you a center of excellence for that. And so you will see me putting a major focus on acquisition.

One of the criticisms that I saw about EM before I joined was that, as often happens when you want to get on with things, sometimes the early phases of acquisition – the project planning, the risk management plans – suffer. We need to do a better job of integrating that into the way we do business. We will follow project management principles. Jesse Roberson reorganized the entire EM program into PBSs and directed that they be managed as projects. And we will follow through with that. We will refocus our monthly reporting and our quarterly face-to-face reviews so that we enter it looking at what was the plan, what were the metrics, how were we doing. Industry knows how to do this. You don't have to create a government system for project management. Industry has a suite of tools, many of them are trademarked proprietary so I won't say the names, but they integrate schedule costs. The government now requires the use of earned value management. We need to get on with genuinely using the full suite of commercially available project management tools to manage what we do. I think a large number of our projects are, but I think we still have a ways to go.

Last month the independent monthly report on performance across the Department of Energy indicates that only 64 percent of our projects are on cost, on schedule. Now that may seem alarming. It's not a good number. But we're finding is that in some cases it's because the sites are not reporting at all. In some cases the reporting is not correct. And in some cases we really have problems. So I've asked that we have an action plan to get us better than 64 percent.

When I joined the Department of Energy in October of 2000, we were focused on capital construction. We didn't even know how many projects we had. It turns out we had about 120. The first time that we measured, only 52 percent were performing on cost, on schedule. We set a target of 90. We obtained 90. We raised the target to 95 percent and for six months running, earlier this year the Department attained 95 percent of its capital projects performing on cost and on schedule based upon the information given to the Department. Then we had a problem with the waste treatment plant and that brought the portfolio performance statistic way down because it's a large project. But my point is, it can be done. It can be done if you apply proper project management planning, metrics and management. In my testimony to Congress I said that I would like to get us to where 90 percent of our projects are performing on cost, on schedule. It's not going to be tomorrow. But we clearly know where we want to go. I will be here through the balance of this term which is more than three years. And I would like to leave our performance at a higher level than we have it today.

I would like to be sure that as people understand their roles and responsibilities they have the authority to go with it. I would like to sharpen the definition of the roles and responsibilities both of headquarters staff and the field managers. And then once the responsibilities are clearly understood, then give people the authority that they need to do their job. Having been a product so many years of the military, and then going into the private sector, I found that the private sector wasn't so very different than the military. You have line, you have staff, people know their job and they have the authority to do it. And I would like to bring those same principles to EM, giving people the authority they need to make their decisions, inform their bosses, and get on with their work rather than requiring decisions to come to the very top level because people don't have the authority to make decisions when they know what the right thing is to do.

We have to take care of our people. You might have heard yesterday that the A-76 study of our compliance technical functions has been cancelled. This was a study that was undertaken under the old model, which looked at the past rather than at the future.

I talked just this morning with the people from the APPA. They thought that NAPA would be able to help us in looking at how our work force should be structured. What are the skills that we need and how can we better match the skills that we need with the work force going forward. I would like to take a totally integrated look at this. The federal staff in 2002 was about 2,600 people. Today it's about 1,300 people. There has been a lot of attrition. Because of the A-76 study, we've had a hiring freeze on. Now that that has been cancelled, I would like to take a totally integrated look at the work force, look at what skills do we need going forward - technical contracting, project management, environmental compliance - do a skill gap analysis, and develop an organized and integrated recruitment internship program for EM so that we can better staff and have the knowledge that we need to go forward.

The Defense Nuclear Facilities Safety Board chair commented to me that he believes that we should have not in numbers, but in quality of expertise, at least as good an expertise as our contractors do. So that we can understand what the contractors are telling us independently. So I am looking to build an integrated approach for human capital management that recognizes that an organization can never be better than its people. We can't be an organization that excels unless we have the right work force with the right competencies to do that.

In summary, we all know it's a difficult and challenging job. You'll see a major focus on safety, on making us into a true acquisition organization, and on people. Just this week, I met with the Dean of Graduate Programs at the University of Maryland. And at the same meeting was the chair of their Environmental Management Masters Program and the Chair of their Project Management Certificate Program. What better match! They're not the only university in the country that does this, but there are places to go as part of an internship program to get people the skills that they need and the education that they need to do these things.

Again, I thank you for your personal commitment, what you do. I look forward to future meetings with you. I look forward to hearing back from you with your perceptions. If there is anything you would like to suggest, based upon what I've shared with you this morning, I welcome that. I'm learning every day and I'm really enjoying the learning. I consider you to be a very, very important part of that process.

Questions:

Mr. Winston: As a fellow engineer, I would say that your background will serve you richly in providing a foundation gyroscope for the many decisions that are going to come across your desk. I was encouraged to hear you say that any successful effort has an external input or external view that's taken into account. I enjoyed hearing that and I would urge you to send that message out across the EM complex. I worked as a regulator with the Department since 1984. And in that time I've seen a variety of approaches. The traditional model was decide, announce, and defend, but I've also seen DOE work incredibly collaboratively with local communities, with regulators, with stakeholders. And where DOE has been able to move forward, it's when there's been shared responsibility, certainly not DOE abdicating their responsibility, but providing leadership in a collaborative mode.

There are a lot of opportunities at the national level. I'm involved with the National Governors Association, State and Tribal Government Working Group, and Energy Communities Alliance. We have a lot of partners out there that really care deeply about the success of the EM program. We are often your allies on the Hill, whether it's budget issues or programmatic issues.

Then at the field there certainly is an opportunity for interaction that is collaborative and productive. But I also think that that message can really be reinforced out of your office and there are probably still some vestiges of the Department that would rather close the doors and make some decisions and then try to force them through externally.

So I appreciate your comments and I would just urge you to try to reinforce that across the EM complex.

Mr. Rispoli: I appreciate your comments and agree with you entirely. I've already had the good fortune to meet with several of the American Indian nation leadership. I have met with regulators just about everywhere I've gone or other stakeholders, advisory boards at the sites, and we need to encourage that type of participation. I don't think it will be a surprise to our friends from the press, but I read just about everything that comes across my desk from them too. Because it's important to understand how we are perceived by the stakeholders. And I consider all of that to be very valuable.

Mr. Swindle: We welcome the leadership you bring on board. The morale of the Department is partly looking for the leadership to come along and some stability now that EM-1, 2 and 3 are in place. Could you comment on your approach to grow that leadership and the morale, but also just touch base on how you see the Congressional relations? Because at the end of the day they are the customer that's providing the funds.

Mr. Rispoli: I've met a lot of our elected legislators, senators and congressmen, even before the confirmation hearings one on one. I've had good dialogue with all of those whom I've met. I've known a number of the staff from before. I think that they have been very honest. And I'm pretty much a straight shooter. If I can answer a question honestly, I will do that. If I don't know I'll say I don't know.

And I think credibility is the key whether you're dealing with staff or with stakeholders. You can't possibly know everything in an organization as big as EM, but I think you have to be credible in everything you do, especially with the people with whom you work. And that's a very, very key component.

Mr. Barnes: I just wanted to commend you on four things you said. One: the commitment to staying for the full period of time. As somebody who has held a number of presidential commissions, I have seen too many people come in and get their resume punched, then move on. Second, I think the emphasis on people is superb. What you are putting in place for the people in the organization and for your successors and others is admirable. I like your perspective of looking beyond your watch. Third, as a member of NAPA, I was pleased to hear that you are going to draw on that organization, because I think that they have considerable insights in managing programs. And finally, from my perspective as a recent dean of a major public affairs program, I think the idea of utilizing internships to get young people interested in DOE and to see career potential here is excellent.

Mr. Rispoli: I appreciate that. The people part is so important. I heard a presentation by the senior staff person at the NRC, where they have an internship program with 200 people. They use other professionals to go to the campuses rather than HR people alone. They have a development program that includes a mix of formal education and onsite work. Our own NNSA has a program that recognizes and has those same components. And here we are managing a very, very technically complicated program. I think we need something like that and we need an

integrated look at all of this. And I'm excited about talking with and engaging NAPA. I think that they are the right people.

I appreciate the time to have spent with you here today. I look forward to seeing you at upcoming meetings.

Mr. Ajello: Thanks very much for coming. We look forward to working with you. We wish you all the best.

Board Discussion and Planning for Project Work

Mr. Ajello: What I would like to do is try to moderate a discussion leading to the course of the Board's activities. But leading up to that, any other thoughts or comments that we didn't get on the table in the record yesterday that we might want to focus on?

Mr. Ferrigno: Mr. Rispoli wanted to know some areas where we could help his program. I propose work force transition retraining. There are successful programs including one I was involved in one in Colorado where we transitioned 200-plus mining and oil and gas people. This was in 1999 when the IT boom was up. And we did an internship, a training program, and the University of Colorado together with Colorado Institute of Technology did this transition and these people now are working at Raytheon, Quest and other companies like that. The Department should consider a work force transition program that is quite deliberate and in conjunction with a university graduate, faculty type setting.

Mr. Ajello: Do you mean work force transition in kind of a boom, bust closure environment? Or do you mean work force transition in the context of an aging work force needing to replenish the work force? Which tact?

Mr. Ferrigno: When we did the program in the University of Colorado, we were aiming at a 15 to 20-year experienced type engineer or scientist to move from one business sector to another which requires rudimentary skills in the training. In this case you had people who were civil and mechanical engineers becoming software programmers. We can reverse that with science. It took six months of training, six months of internship, and then one year of mentoring. As a result, we put 20-year veterans in the workplace who had gotten the state-of-the-art training and brought their rich experience of managing complexity into another business sector. It was a huge success.

Mr. Ajello: We ought to take those ideas and cobble some of the themes from that program. Hopefully it's not proprietary.

Mr. Ferrigno: No, it's not. It's public information.

Mr. Ajello: To make it actionable we ought to take a summary of that. If you could send it in, I'll prepare it. The other thing I would like to do is accompany that with ideas about recruitment, internships, and training programs. There's a strong felt need to do some foundation building with younger staff from the organization and, in particular, to go to programs that specialize in acquisition procurement skill bases.

Ms. Salisbury: I think with Mr. Barnes having joined the Board that it would be a great way for us to get involved in this with his leadership at a university and as a former dean.

Mr. Barnes: I would be very happy to do that.

Mr. Ajello: I think most of the organizations we work in, certainly the one I work in now, have a regular program. We pick five or ten schools. We go there every year but we are viewed as a customer. Frankly, you get access to some of the better students that you would otherwise not be presented with if you were just episodically in every two or three years. You get to know the teachers or professors. I find that there's nothing quite like that in terms of developing a relationship. Maybe we can identify some principles and approaches and maybe a handful of schools that they ought to go to.

So work force transition to management, good principles around internship and identifying some of the institutions could be an action item that could be very, very helpful.

Mr. Ferrigno: From listening to Mr. Rispoli, and from where the Department is, they are now in a human capital acquisition. Their budgets haven't changed. But their staffing has been on hold for a good period of time and they've had attrition. I think the balance that they need is both young blood, but also experienced staff to be able to take care of their immediate needs. So it's a balance and it's across the entire spectrum. It's not just getting college graduates involved.

Mr. Barnes: If you're going to have somebody that's going to come in and play a lead role in acquiring or managing major contracts, that's something that an intern can go to school and learn from other people. You've got to have some people that have got some serious experience in the first chair on those acquisitions and for managing those contracts.

Mr. Allred: Looking at bringing new people in the agency is a long-term fix, it's not short-term. One of the things that I think needs to be also emphasized is training for those people who are on the line right now. And if you look at earned value or managing the contract, those ideas and capacities are not deep within the organization. And so while I think it is important to find new blood and to train new people coming into the agency, it is perhaps equally or more important to make sure that that training and awareness is thoroughly spread through the existing organization and the existing work force. Because I think without that EM is not going to be as successful as it otherwise could be, and that will affect attracting new people. We need to broaden our view to look at how do we augment the capabilities of the existing work force, particularly at the site level.

Mr. Ajello: Does anybody have any ideas about how we can gauge how well they're doing now, what they're doing now in order to say, your baseline is too low for the skill levels that you might need and you need to raise it? Do we need to step back and figure out what's happening or do we think we have a good enough sense of that?

Mr. Barnes: You could use the National Academy of Public Administration. I have been on a number of their study panels for different agencies and typically they're going to have two or three staff people that are pulling information together and then they put together a panel composed of members of the Academy. For example, the panel might include the former assistant secretaries for management of various organizations. They would be part of a group that would help develop the recommendations. So if he's going to have a formal NAPA study, there probably is going to be an undertaking where a group with experience and expertise is going to be taking a fairly rigorous look at that issue. The Board might be at somewhat of a disadvantage trying to get that same kind of staff work done.

Mr. Ferrigno: The training needs to be done, but also the mentoring needs to be done. With regard to certification, when I heard the briefing yesterday, they had said they're project management certified to DOE. I don't know what that means, only because we weren't briefed on what that was. It would be helpful for us to know what the criteria is of certification, is it PMI, project management professional based? Is it another certification? But what we found is that it wasn't good enough just to have training. I mean, training is extremely important, but the mentoring is also critical to walk somebody through some of these on-fire-type projects, so that way you are able to really gain that expertise.

Mr. Swindle: There are some precedents from the Board's history when, for example, the National Academy of Science's study was undertaken at the direction of EM-1 that the Board was provided with an observer status. I would encourage that if there is such a study undertaken whether it be the National Academy as mentioned earlier, that we consider that once we learn more details.

Internally, there is the challenge of retention, revitalization, and skill development. I think we can place some input and roles on that. Second, to administer a program that's actually got about a 20 percent increase in funding total and an over 50 percent reduction in staff worries me from the standpoint of good administration. And on the external, where EM buys essentially everything in terms of services, there's always been a challenge with contractor work force skills. In the old days, restructuring of the work force meant, how do you take that old guys and gals that built the bombs and convert them into being environmental management specialists. Now, it's how do you take workers from other industry retraining and then provide the work force. It's a different transition.

Mr. Ajello: Retention and revitalization of skill development might be a good template for us to present ideas. Everything we're talking about could be fit under there.

Another issue is - can we really do all these procurements in roughly the same frame? I think we got an answer that it was going to be extraordinarily difficult if not impossible. This is an immediate need that they have, and I think we should think about ideas that we can present.

Mr. Ferrigno: Their acquisition is a project in itself. It has milestones, delivery dates, resources required, and accountabilities. It needs to be done speedily and in compliance with all the regulations.

Mr. Swindle: Following on that point, separately we've learned in the course of this week that the Corps of Engineers because of Katrina and the recovery has gone out with concurrence of OMB to reach into every federal organization for their acquisition executives. One of the Board's actions is to encourage EM to lean forward in the fox hole as quickly as it can on the EM acquisition front to give added attention to early recruiting or early establishment of some of the principles. Without this, EM cannot move forward.

Ms. Anderson: We need to be cognizant of keeping the employee morale up. I don't want us to lose the human element of this and the ability of these folks to continue to interact with the regulators and the people at the sites, the local officials and the stakeholders.

Mr. Allred: While I am concerned about acquisitions, acquisitions don't do you any good if they're not successfully implemented. Many of the troubles that EM has had in the past were not because of acquisitions and how they were done; the projects just were not implemented capability. The Board should place more emphasis on the training of mid-level management.

Federal project directors are being emphasized. But what's happening below that level? The day-to-day activities are probably not being accomplished by the project directors, but rather by "subproject directors." The Board should emphasize that these people are adequately supplied with the tools they need to make these projects successful. And successful projects also are going to do wonders for acquisition. Maybe there are ways to look at those people even below that subproject director level that need training. We might want to ask for a briefing on what is that training. I don't know what the CRB certification includes.

Mr. Ajello: The Board can be effective once we know what the training is. Then we'll be in a better position to critique it. Perhaps we should develop a template called "retention, revitalization, and skill development," and then construct a matrix for the short term and long term. I'll take the action item and try to put together what training exists.

Ms. Salisbury: This area might be a good one to have interim briefings, where we have a smaller group. But I wanted to raise a slightly different issue. The Assistant Secretary talked about elevating acquisition to a DAS level. Should we go on record as supporting that, if in fact the members agree?

Mr. Ajello: The Board is already on record as saying that EM does not have a sufficiently defined professional track of certified acquisition, procurement staff. We called for this almost two years ago when we took a look at the issues of metrics and contract strategy. In the contract strategy one was the human part of this, the development part of this. And I think we could go back to that. And I am certainly in favor of confirming that.

Ms. Salisbury: Maybe we can just affirm our earlier recommendation this morning, then support his efforts to elevate the acquisition management grouping to a DAS status.

Mr. Ajello: I would certainly support it. And I think that's where he is going. I think that's basically in the oven, so to speak.

Ms. Anderson: I think we should also congratulate him on continuing to make this culture of safety.

Mr. Ferrigno: One of the things that Mr. Rispoli talked about was that, yes, he needed to revitalize people, but that in certain cases, I got the impression in the interim they may need to call on contract help. I think that's the right thing to do to get through the initial need, and maybe we need to also speak to that in our review.

Mr. Swindle: I agree in principle, but I think that goes beyond our scope as a Board. It's an implementation and operational issue. What we can do is encourage that EM quickly undertake an assessment of its human capital needs that looks at what do you do until you're able to recruit. Then, how you would you move into the stable, sustainable work force level. We are in a position to help monitor this as part of our fiduciary responsibilities as a board to advisors. The same outcome may be achieved, but let the solution be theirs.

Mr. Ajello: I want to get your thoughts on how we might package these things up. We are doing some brainstorming, summarizing, and making suggestions, all of which get on the record. I want to summarize these points and bring them forward with circulation amongst the group. Then, I think we need to make the ideas a little bit more specific, put them in a template that would make sense and then put the benefit of some research on, for example, what's happening to

training already and so forth, so we could do that as a working matter and present some ideas that way.

Mr. Winston: We should give Mr. Rispoli a sense of the flavor of this discussion. But I don't think at this meeting we need to come up with specific resolutions. I think that we need to work interactively with him as he crafts both what's important and his path forward. I see this is going to be a work in progress over the coming months.

Mr. Swindle: After hearing his and his principal staff's reflection and statement of their priorities, we propose the following as a Board. Number one, in the area of what's called the "human capital area" the following ideas were discussed and we see our best emphasis is X, Y, Z. We turn our dialogue here into a short communication, then we can do that on a couple of the other areas.

Mr. Ajello: Sure.

Mr. Swindle: And then that will help focus, I think, our path forward for what was discussed in the human capital area.

Mr. Allred: One of the important functions of an advisory board is drawing attention to certain things. And I don't think that necessarily needs a resolution. It can be as simple as what's on the agenda for the next meeting. And the fact that there's a briefing or a request for a briefing on those particular items causes attention to be given to it. So I think there are more subtle ways, perhaps, than formal action by this Board that we can accomplish what we want to accomplish.

Mr. Barnes: Assuming you had an invitation from Jim Rispoli to brief him after this, either to come by and see him or have a telephone conversation fairly soon afterwards which seems to me would be a good way to kind of go through the list and then maybe communicate back to the Board what the results of that conversation are. For the human capital issues, probably the exchange of some e-mails could likely bring the Board along and then we could see whether this would be a possible topic for one of the interim kinds of sessions that was suggested so the interested members of the Board might get together with him and kick some of them around.

Mr. Ajello: I would like to get our observations on a white board and summarize them. I think these could go into our letter report and then we can focus the projects that we're going to work on.

Mr. Ajello then called a brief recess until 10:50 a.m.

Break

Board Business

Mr. Ajello reconvened the meeting and explained that the purpose of the session was to summarize observations and plan for the work ahead. He then asked for a resolution to approve the minutes from the 2003 EMAB meeting. The minutes were approved.

Mr. Ajello proposed using the white board to summarize the Board's potential areas of interest:

- Congratulations to the Department of Energy for implementation of the EBAB November 21, 2003 Report:

- Contracts
- Project Metrics
- Disconnects between contract baseline and life-cycle baselines for program
- Consider identifying project contingency in life-cycle
- Risk analysis needs more consistency across the Department/site projects:
 - Confidence
 - Analysis / Training
 - Review / Audit
 - Update and integration for forecast
- Decouple national issues from End States
- Improve human capital and morale within the EM Program and establish retention, revitalization and skill development
- Elevate Acquisition to Deputy Assistant Secretary level, but must be integrated
- Treat Acquisition as a project with schedule, milestones, budgets, roles and responsibilities, and metrics
- Ask for briefing on overall issue of Waste Disposition
- Provide lessons learned from small business contracting

Mr. Ajello recessed the meeting until 12:45 p.m.

Lunch Break

Mr. Ajello reconvened the meeting and asked the Board members to bring up any new business for Board discussion. There was no response. Mr. Ajello then moved to set the date for the next Board meeting.

Date for Next Meeting

The Board tentatively agreed to meet in Idaho in March 2006.

Public Comment

Mr. Ajello asked for public comment. There was none.

Adjournment

Mr. Ajello then adjourned the meeting at 1:55 p.m.

APPENDIX A

**ENVIRONMENTAL MANAGEMENT ADVISORY BOARD
U.S. DEPARTMENT OF ENERGY
Meeting Agenda
September 29 – 30, 2005
Forrestal Building, Room 1E-245**

Thursday, September 29th

- 9:00 a.m.** **Public Meeting Opens**
Welcome Remarks
❖ **James Ajello, *EMAB Chair***
- 9:15 a.m.** **EM Program Overview**
❖ **Charles E. Anderson, *Principal Deputy Assistant Secretary for Environmental Management***
- 9:45 a.m.** **Site Operations Overview**
❖ **Inés Triay, *EM Chief Operating Officer***
- 10:15 a.m.** **Break**
- 10:30 a.m.** **End State Presentation**
❖ **Mark Gilbertson, *Deputy Assistant Secretary for Environmental Cleanup & Acceleration***
- 11:00 a.m.** **Roundtable Discussion**
❖ **Tom Winston & Jennifer Salisbury, *Board Members (Discussion Leaders)***
- 11:45 a.m.** **Public Comment Period**
- 12:00 p.m.** **Lunch Break {Working Lunch for Board Members}**
- 1:00 p.m.** **Contract Strategy and Management Presentation**
❖ **Barry Smith, *Director, Office of Acquisitions Management***
- 1:30 p.m.** **Roundtable Discussion**
James Ajello, *EMAB Chair* & David Swindle, *Board Member (Discussion Leaders)*
- 2:15 p.m.** **Public Comment Period**
- 2:30 p.m.** **Break**
- 2:45 p.m.** **Project Management and Oversight Presentation**
❖ **Karen C. Guevara, *Director, Office of Project Planning & Controls***
❖ **Jay E. Rhoderick, *Director, Office of Performance Assessment***

3:30 p.m. Roundtable Discussion
 ❖ **Dennis Ferrigno, Board Member (Discussion Leader)**

4:15 p.m. Public Comment Period

5:00 p.m. Adjournment

Friday, September 30th

9:00 a.m. Public Meeting Open
 ❖ **James Ajello, EMAB Chair**

9:15 a.m. Opening Remarks
 ❖ **James A. Rispoli, Assistant Secretary for Environmental Management**

9:45 a.m. Board Discussion and Planning for Project Work

10:30 a.m. Break

10:45 a.m. Board Business (includes approving of 2003 meeting minutes)

12:00 p.m. Lunch Break {Working Lunch for Board Members}

1:00 p.m. Board Business (con't)
 New Business
 Set Date for Next Meeting

2:00 p.m. Public Comment Period and Adjournment

APPENDIX B

Department of Energy Charter for the Environmental Management Advisory Board

1. Official Designation:

Environmental Management Advisory Board.

2. Objective, Scope of Activity, and Duties:

The Environmental Management Advisory Board will provide the Assistant Secretary for Environmental Management with information and advice on corporate issues. The Board will be informed of the progress on the Environmental Management projects at regular intervals to be determined by the Assistant Secretary.

The Board will perform the following duties:

- a. Advise the Department of Energy on Environmental Management strategies;
- b. Issue reports and recommendations;
- c. Recommend options to resolve difficult issues faced in the Environmental Management program including; contracts and acquisition strategies, public and worker health and safety, integration and disposition of waste, regulatory agreements, roles and authorities, risk based end-states activities and risk reduction, cost-benefit analyses, program performance and functionality, and science requirements and applications.

3. Time Period Necessary for the Board to Carry Out Its Purpose:

Since the task of the Board is to advise agency officials on a series of Environmental Management strategies and strategic advice on corporate issues, the time period required to carry out its purpose is continuing in nature.

4. Official to Whom this Board Reports:

This Board will report to the Assistant Secretary for Environmental Management.

5. Agency Responsible for Providing Necessary Support for the Board:

United States Department of Energy.

6. Description of Duties for Which the Board is Responsible:

The duties of the Board are solely advisory and are stated in paragraph 2, above.

7. Estimated Annual Operating in Dollars and Person-Years:

The Department of Energy will provide resources sufficient to conduct its business as well as travel and subsistence (per diem) expenses for eligible members. The estimated costs are \$400,000 and approximately 4 permanent staff members.

8. Estimated Number and Frequency of Board Meetings:

The Board will meet semi-annually or as deemed appropriate by the Assistant Secretary for Environmental Management. Specialized committees of the Board will meet as deemed appropriate by the Assistant Secretary for Environmental Management.

9. Termination Date (if less than 2 years from the date of establishment or renewal):

Not applicable.

10. Members:

Members of the Board shall be appointed by the Secretary of Energy for 2 years to achieve continuity in membership and to make use of the acquired knowledge and experience with Environmental Management projects. Members may be reappointed for additional terms of 1 or 2 years.

11. Organization and Subcommittees:

The Board shall report to the Assistant Secretary for Environmental Management or other officers of the Department designated by the Secretary of Energy.

The Board is authorized to constitute such specialized committees to carry out its responsibilities as the Assistant Secretary for Environmental Management finds necessary. Committees will report through the Board.

Individuals with specialized skills who are not members of the Board may be consulted by the Board or specialized committees, as appropriate.

12. Chair:

The Assistant Secretary for Environmental Management appoints the Chair of the Board from the Board membership.

Date: MAR 23, 2004

/s/

James N. Solit
Advisory Committee Management Officer

Date Filed: MAR 23, 2004

