

FINAL MEETING SUMMARY

HANFORD ADVISORY BOARD

June 5 – 6, 2008

Richland, WA

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This is only a summary of issues and actions in this meeting. It may not fully represent the ideas discussed or opinions given. Examination of this document cannot equal or replace attendance and public participation.

Executive Summary

Board Action

The Board adopted three pieces of advice

TPA Negotiations Update

The Board received an update on the ongoing Tri-Party Agreement (TPA) negotiations and will continue to track the negotiation process.

National Liaison Update

Shelley Cimon, Public-at-Large, reported on recent Site Specific Advisory Board (SSAB) activities including the upcoming Chair's meeting that will be held in Richland, Washington at the end of April.

Board Business

The Board will have committee calls in April to plan for committee meetings in May. The Board will meet in June.

HANFORD ADVISORY BOARD

April 3-4, 2008 Portland, OR

Susan Leckband, Non-Union, Non-Management Employees (Hanford Work Force) and Board Chair, called the meeting of the Hanford Advisory Board (HAB or Board) to order. The meeting was open to the public and offered ongoing opportunities for public comment.

Board members in attendance are listed at the end of this summary, as are members of the public.

Welcome, Introductions and Announcements

Susan welcomed the Board to Richland. She noted the Government Accountability Project seat is now called the Hanford Challenge (Hanford Work Force). Tom Carpenter will continue to be the member and nominated Mason Low to serve as the new alternate.

Richard Lietz replaced Jim Curdy as the member from Grant and Franklin Counties (Local Government).

Penny Mabie, EnviroIssues, introduced the new EnviroIssues facilitator, Susan Hayman. Susan said she was happy to start working with the Board and described her natural resource and facilitation experience with the USDA Forest Service and her own company, North Country Resources.

Steve Weigman, Department of Energy – Office of River Protection (DOE-ORP), is retiring. Doug Mercer, University of Washington (University), asked if work had progressed as far as he initially anticipated when he first began working at Hanford. Steve said when he first started working at Hanford, it seemed to be about ten years behind in environmental regulation. Over the years, Steve said they have successfully reduced risk even though some projects, like K Basins, took longer than anticipated. Steve said the site is further along than it has ever been and he felt good about the overall risk reduction. He noted the difficulty now lies in the fact that it is harder to identify the highest areas of risk. Steve said working with the Board has been a highlight of his time with the federal government. He thanked Board members for their work. The Board thanked Steve for his service.

Susan Leckband reviewed the meeting goals:

- Consider a draft letter from the River and Plateau Committee (RAP) on the 200 Area PW 1/3/6 operable units;
- Consider draft advice from the Health, Safety and Environmental Protection Committee (HSEP) on uniform site-wide safety standards;
- Consider a draft letter from the Executive Issues Committee (EIC) on the HAB Fiscal Year (FY) 2010 budget request;
- Hear about the recent Environmental Management (EM) Site Specific Advisory Board (SSAB) Chairs meeting and consider signing on to two Chairs letters;
- Hear a presentation on the System Plan Revision 3 report;
- Have a brief update on the Tri-Party Agreement negotiations;
- Debrief the Leadership Retreat and discuss 2009 Board priorities;
- Learn about the proposed HAB Charter/Operating Ground Rules changes; and
- Hear a presentation from the Environmental Protection Agency (EPA) on the State of the Columbia River.

The Board meeting was audio-recorded.

April Meeting Summary

Board members did not submit any substantive changes to the April meeting summary.

The April meeting summary was adopted.

Draft advice on uniform site-wide safety standards

Keith Smith, Public-at-Large, introduced the draft advice on uniform site-wide safety standards. Keith said it is evident there is good intent to ensure safety throughout the site; the advice encourages DOE to make absolutely sure its safety programs are effective. Keith recognized that Hanford has an enviable safety record compared to similar industrial activities, but vigilance is essential. The draft advice advises:

- Uniform training and implementation of Integrated Safety Management Systems (ISMS) for all employees of all contractors
- Construction and implementation of a uniform respiratory protection program
- A single, uniform Lockout-Tagout program
- A single, uniform radiation worker training program
- Worker participation in creation and implementation of safety programs
- Procedures established with meaningful input from all subject matter experts
- Establishment of uniform programs to all existing contractors and subcontractors

Keith stressed that uniformity is important for new and existing contracts.

Discussion

Gerry Pollet, Heart of America Northwest (Regional Environmental/Citizen), thought the advice is important and the lack of uniformity applies especially to beryllium. Gerry said single uniform safety beryllium compliance should be added to the advice; the Board agreed that a single, uniform site-wide beryllium safety program covering all facilities and workers is a critical element.

Dick Smith, City of Kennewick (Local Government), thought contracting needs to realize the cost of safety and build it into bid requirements. Cost is often a problem for small subcontractors. Maynard agreed that it should be standard for all bids. The Board added a statement that a uniform amount for costs associated with safety training should be added to all contracts to ensure uniform and fair competition.

Rob Davis, City of Pasco (Local Government), said he would like to review site safety as an agenda item for each Board meeting. He would also like to see a safety report identify the number of overexposures, lost time accidents, “near misses,” etc. Susan Leckband questioned whether that should be part of the advice and suggested further discussion by HSEP.

Mike Keizer, Central Washington Building Trades (Hanford Work Force), applauded HSEP for the draft advice. He anticipated positive results from a standardized safety training program. He thought the utilization of Volpentest Hazardous Materials Management and Emergency Response Training and Education Center (HAMMER) is important. Mike also advocated for a site-wide database to record each worker’s training. Keith noted a database is one of the current HAMMER functions; Susan Kreid, Washington League of Women Voters (Regional Environmental/Citizen), thought that database only serves workers and contractors who use HAMMER. The advice was changed to advise the creation and maintenance of a centralized, site-wide database to track all worker safety and qualifications training.

Keith quoted the motto “Safety doesn’t cost, it pays.” He thought Hanford demonstrates that work is less expensive when it is safely performed.

Doug asked if there are formal safety evaluations to review the merits of some of the Board’s proposals. Matt McCormick, DOE-RL, said DOE fundamentally agrees with the ideas; for example, it implemented a site-wide lockout-tagout program to promote better safety as workers move from job to job. There are also annual or biannual safety assessments at the site. The reports are available on the DOE website. Thirty inspectors reviewed all aspects of safety during the last assessment in August 2007. Keith added that there are periodic Integrated Safety Management Systems (ISMS) audits as well.

Emmett Moore, Washington State University (University), asked if there were any DOE directives that are not being followed. Matt said there is a process to fine contractors who do not follow DOE safety regulations.

The advice was adopted.

SSAB meeting

Susan Leckband said the EM SSAB chairs enjoyed the B Reactor Museum and the site tour they experienced as part of their meeting in Richland. She thought they appreciated the Hanford's huge scope of work. Susan, Shelley Cimon, Public-at-Large, and Rick Jansons, Benton-Franklin Regional Council (Local Government) attended.

The considered two letters drafted by the EM SSAB. One was in support of the establishment and continuation of the office of communication and the other regarded sharing quarterly project reviews with the SSAB.

Shelley provided a short summary of the meeting. There are seven advisory boards on the EM SSAB, including the HAB, and there will soon be a new board at Port Smith Gaseous Diffusion Plant. She thanked Steve Wiegman for the excellent site tour. Shelley said Jim Rispoli, Assistant Secretary for DOE-EM, discussed his concerns, commitment to cleanup, verifying project baselines, deploying technologies and focusing on project execution. Shelley said the SSAB discussed a Hanford budget baseline workshop. Merle Sykes, Deputy Assistant Secretary, Program Planning and Budget for DOE-EM, discussed an analytical "building block" that helps build a level of information between the baseline and detailed field planning. This building block is used to review sequencing activities and "stack" them. Shelley said Pam Larsen, City of Richland (Local Government), has been working hard to get a baseline budget workshop and see how the budget equates to risk reduction.

EM SSAB meeting notes are available on its website: www.em.doe.gov/Pages/ssab.aspx.

The Board approved the EM SSAB letters.

Draft Advice on Development of the Feasibility Study (FS) and Proposed Plan for 200-PW-1, 3 and 6 Operable Units

Shelley introduced the draft advice on the development of the FS and proposed plan for 200-PW-1, 3 and 6 operable units. A cleanup alternatives workshop on April 15 looked specifically at 200-PW-1, 3 and 6 operable units containing rich plutonium waste. Shelley found it valuable to be involved at the beginning of the process and during the development of the FS. The proposed plan itself will be available for public comment. It has not yet been issued. She said the draft advice codifies the Board's issues and values related to 200-PW-1, 3 and 6 operable units.

Agency perspective

Nick Ceto, Environmental Protection Agency (EPA), thought the advice is important. He cautioned against advising against any and all institutional controls because some will be needed and are inevitable. He also noted, in regards to the recommendation of analyzing potential hazards out to 1,00 years beyond peak dose or hazard, there may not be any analysis because the hazard was eliminated.

Jane Hedges, Washington State Department of Ecology (Ecology), did not have any comments on the draft advice because it is an EPA site.

Matt McCormick, DOE-RL, thanked Board members for attending the workshop, it was well attended. He asked that the draft advice better define transuranic (TRU) waste.

Discussion

Todd Martin, Citizens for a Clean Eastern Washington (Regional Environmental/Citizen), recused himself from the discussion.

Gerry thought the advice should clearly state the Board wants full characterization and retrieval. He thought the advice should be clear about permanence and that waste sites should be fully treated to achieve the goal of permanence consistent with prior advice. Ken Niles, Oregon Department of Energy (State of Oregon), noted that the cleanup remedies, rather than DOE decisions, should have permanence.

Gerry commented that at Idaho National Laboratory, DOE is proposing to blend TRU waste down to low level waste. Nick said EPA is confident TRU waste is not being blended down. Gerry said the baseline indicates waste will be blended down to meet waste acceptance criteria; Nick said waste may be blended down if it goes to the Waste Isolation and Pilot Plant (WIPP), but not for in-place disposal.

Pam thought the advice may be too prescriptive. She asked what “discounted cash flow analysis” means; Dick said it means present value analysis.

Floyd Hodges, Citizens for a Clean Eastern Washington (Regional Environmental/Citizen), thought the advice should strongly emphasize waste removal; he said barriers are short term solutions.

Doug thought references to past advice on long-term stewardship and institutional controls should be included in the advice. He also said that if this workshop and public involvement process were so good, should the Board issue advice that it was a good and new model for public involvement? Susan Leckband thought that was a good idea, but the Board had already issued similar advice. Shelley suggested adding it to the background section and check past advice.

Doug noted there are inherent ambiguities in any long-term stewardship plan. Has DOE identified that they cannot know with certainty the effectiveness of institutional controls? Nick thought that referred to assumptions going into alternative analysis and if it is not, it should be reworded.

The Board discussed format and intent, and whether it should be advice or a letter. Dick thought the advice points were interesting and useful, but it could be difficult for DOE to respond to each particular point especially ones pertaining to more than 200-PW-1, 3 and 6 operable units. He thought it may be more useful as a letter.

Rob agreed and thought some of the advice points were unclear. Maynard clarified the committee thought the issues pertaining to 200-PW-1, 3 and 6 operable units actually applied to many issues, and the advice could serve as a “foundation piece.”

Shelley confirmed there was movement in the committee to change it to advice near the end of its development because many of the issues apply across the site.

Ken Niles said advice is stronger because it requires a response. Susan Kreid thought it should be a letter and the committee should draft clear and strong follow-up advice.

Doug suggested organizing the advice by the nature of each bullet, such as by process of decision, decision analysis, decision and criteria, and information quality. He thought it would help organize and categorize the information better. Matt said it would be helpful to see numbered advice points.

After organizational revisions, the Board decided to keep it as advice and did not change it to a letter. It agreed that the workshop was a good model of early public involvement.

Content discussion continued; Ken Niles noted there are more concerns about plutonium than just the potential misuse of plutonium for weapons.

The Board revised the format of how the advice references past advice.

Armand Minthorn, Confederated Tribes of the Umatilla Indian Reservation (CTUIR) (Tribal Government, Ex-Officio), asked that the advice specifically reference tribes when it references the public.

Emmett thought the advice should specifically reference TRU waste and mixed TRU waste.

Harold thought it was a “shopping list” rather than overall policy advice. He said the advice should focus on policy. Nick said the regulators and agencies wanted public input on the FS and proposed plan because it is a tough issue. They wanted the Board’s opinion before they went out for public input.

Susan Leckband asked DOE if the advice was too detailed; Kim Ballinger, DOE-RL, confirmed that is the level of detail Matt and DOE-RL wanted. Susan Leckband clarified that the Board typically does not include so much detail, but the agencies asked for detail because the FS and proposed plan will contain precedent-setting decisions.

Susan Leckband noted the Board often creates attachments to advice, allowing it to keep the advice itself policy-level and letting the attachment address specific issues. She thought that could give DOE the information it wants while keeping it in the form of advice. Shelly thought that would work; this is a great opportunity for the Board to be involved in the front-end of an issue, before the FS and proposed plan are developed.

Pam said the advice should be clear about the concept of removing material to the extent practicable, and then direct the reader to the attachment for more information.

Maynard reminded the Board that the intent is to be overarching since decisions made regarding the 200-PW-1, 3 and 6 operable units apply to many other waste sites. Pam did not think the advice was general or overarching; the Board was asked for specific advice which the title reflects.

Nancy Murray, Public-at-Large, thought the background statement was important policy advice.

Nick did not think it mattered if it was advice or a letter; either way, the agencies have the information they need from the Board. He said he heard the Board saying DOE should use “good science” to determine if plutonium is mobile and if it affects groundwater.

Bob Parks, City of Kennewick (Local Government), asked why the attachment to the advice specifically discusses using waste material to make dirty bombs. Pam said the intent was to discuss dangerous materials that could potentially be used for harm, and to consider all aspects of security, not just guards in front of the canister storage building.

The advice was revised to include an attachment identifying specific considerations important for 200-PW-1, 3 and 6 operable units proposed plan development.

The advice was adopted.

Tri-Party Agreement Negotiations Update

Erik Olds, DOE-ORP, said Tri-Party Agreement (TPA) negotiations continue at the highest levels of management. He said DOE is cautiously optimistic that its efforts will result in a constructive resolution. There will be additional discussions in the coming weeks.

Discussion

Ken Niles asked if there will be an opportunity for stakeholders to respond before the revised TPA is adopted. Nick said DOE, EPA and Ecology have to use the TPA and legal processes and they will discuss stakeholder review.

Leadership Retreat report and 2009 Board Priorities

Susan Leckband reported on the HAB Leadership Retreat held on May 19 and 20 in Yakima. The leadership discussed Board priorities including the Board budget and how to bring upcoming charter decisions to the full board. The draft priorities memo will be melded with DOE’s list of priorities for the Board. Board priorities include:

- Groundwater integration

- Monitor continued momentum and integration with other issues (i.e. waste management)
- Tank waste management
 - Vitrification plant, early low activity waste (LAW) facility treatment, tank farm infrastructure upgrades, systems plans
- Tank Closure and Waste Management (TC&WM) Environmental Impact Statement (EIS)
 - Continue involvement and review; public roll-out; implications of the National Defense Authorization Act (Section 3116) provisions regarding tank waste classification
- Public education and public involvement
 - DOE tasked the Board to become more proactive; clarifying public involvement objectives and goals; provide agencies with input to baseline workshop agenda; identify new approaches to public involvement; ensure public involvement meets the multiple purposes and needs of stakeholders and agencies
- Waste site remediation and trenches
 - Area closure approach; TRU waste; mixed waste
- Institutional controls
 - Relating to proposed plans and activities; broad Board policy/direction statement
- TPA agreement
 - State of the TPA; reflective of “on the ground;” address all of the cleanup; long range look at site budget needs
- Site wide technology to establish a means for stakeholder input into science and technology needs assessment and implementation
 - Hanford pilot project; tied to DOE Environmental Management’s Technology Road Map
- Risk/benefit trade-off decision-making and contingency planning
 - Avoid or mitigate major impacts; emergency shutdowns such as the Tank S-102 leak investigation; minimum safe operations cost and appropriateness
- HAB operating budget for FY 2009 and FY 2010

Susan said committee chairs are responsible for taking Board priorities and using them in committee work plans and activities.

The Board reviewed the draft 2009 meeting schedule:

- November 6-7
- February 5-6
- April 9-10
- June 5-6
- September 10-11

EnviroIssues will send out the meeting schedule to Board members. Susan recommended that the November meeting be held in the Tri-Cities since the September meeting is out of town.

Discussion

Ken Niles pointed out that groundwater integration should be groundwater cleanup and integration.

Harold thought public involvement and education should be one of the Board’s top priorities.

Gerry thought funding and how new contracts will be implemented should be a Board priority.

Ken Gasper, Benton County (Local Government), said the agencies asked the Board to continue frequent communications with the public about the cleanup schedule and provide advice to DOE to develop a robust public involvement process for the release of the TC&WM EIS.

Armand said to include the tribes when discussing the public and public involvement plans.

Susan said the draft priorities would be revised in response to Board and TPA agencies suggestions. The committees will see the revised version.

Board FY 2010 budget request

Rick introduced the draft letter regarding the Board budget and its Fiscal Year (FY) 2010 budget request. The Executive Issues Committee (EIC) drafted the letter as a follow-up to a letter crafted a few years ago discussing the Board's budget and history. The letter reviews past budgets and the flattening of the Board budget, increased work scope, efforts to manage the budget and curtail some activities, and how the Board approaches complete shutdown at the end of the fiscal year. The Board's budget has not changed since 2004. Rick said the letter requests \$560,000 for FY 2010, which is a 3% compounded increase from 2004.

Rick said the Board would again receive \$471,000 in FY 2009, assuming Congress does not reduce it further. EIC continues to look for additional ways to conserve money, including anticipating future committee meetings, identifying specific costs associated with different meeting locations (i.e. Seattle versus Tri-Cities). To reduce operating costs, Rick proposed holding all FY 2009 meetings in the Tri-Cities.

Discussion

Bob Parks asked if the Board saves money by holding all FY 2009 meetings in the Tri-Cities, would that money roll over into the next year? Erik confirmed that money not spent in one fiscal year is carried over and available into the next year.

Ken Niles did not think the Board should commit to helping DOE regain public confidence.

Harold asked Board seats to consider paying their own travel expenses.

The letter was adopted.

Discussion on proposed HAB charter/operating ground rule changes

Todd gave a short presentation on Board history, its charter, charter revisions and decisions the Board is faced with today.

1992: The Future Site Uses Working Group was convened. Todd said it was the first time such a group came together; it issued a report on future site uses at Hanford.

1993: The Tank Waste Task Force was convened and focused on tank waste treatment decisions and future uses. Todd said the process went well and led people and DOE to think about a continuing function and process to discuss such issues. At the same time, the Federal Facilities Dialogue explored the creation of advisory committees around the country, leading to the negotiation of a Board charter by the Keystone Group. Todd noted that some current Board members were part of that process.

1994: In January, the Board met for the first time. At that time, it was known that anyone who advises a federal agency has to be compliant with the Federal Advisory Committee Act (FACA).

1994: In March, the Board was informed it was not FACA compliant. At the same time that President Clinton wanted to reduce the number of advisory boards, DOE was charged with expanding the number of advisory boards. In June, as a sort of compromise, Todd said DOE created one overall charter for all Environmental Management (EM) Site Specific Advisory Boards (SSAB). All DOE advisory boards are accountable to the EM SSAB charter, which is reviewed and readopted every two years. Todd said there was correspondence over the years, indicating the Board was not FACA compliant, but no one took serious action.

2006: In the spring, DOE made significant changes to the EM SSAB charter that cut to the heart of how the Board operates: it established term limits and nearly prevented the Board's ability to advise Ecology and EPA. Todd described those two elements as fundamental foundations. The Executive Issues Committee (EIC) met and discussed the changes. In the summer of 2006, Board leadership met with Jim Rispoli and described how the changes were unacceptable to the Board. Todd said they understood how the Board must be FACA compliant, but the Board leadership felt those two changes had nothing to do with FACA; Todd

described FACA as silent on term limits and the Board's ability to advise other agencies. Rispoli agreed and consented to the Board working with the local field offices, and he committed to working on those two issues to allow the Board to continue to operate as it always had. Todd noted that the local field offices fully supported the board.

2007: In January, the Committee of the Whole (COTW) developed a set of charter changes to present to the Board that it felt was FACA compliant. The changes were sent to DOE-HQ for negotiating purposes with the caveat that the Board agreed to make such changes if the DOE-HQ removed the term limit clause from the EM SSAB charter and provided allowances for the Board to continue to advise EPA and Ecology. The Board waited approximately 13 months for DOE to respond to its charter changes.

2008: In March, EIC received charter changes from DOE. DOE's proposal splits the Board's charter into a Memorandum of Understanding between DOE, Ecology and EPA, and Operating Ground Rules. Todd said the MOU contains much of the original charter with the intent to allow the Board to continue working as it always has.

Todd said the question today is what happens next?

Agency perspective

EPA

Nick said EPA is comfortable with the changes, and acknowledged how contentious it is to change the charter. He had no doubt the Board will be able to function unchanged. The Board plays a critical role and no agency disputes that. DOE takes its SSAB commissions seriously. Nick thought the Board now needs to look forward; at some point, it needs to think about if the MOU and OGR will allow it to continue its mission. Nick said EPA was concerned early in the process about the Board maintaining its independence. He said the MOU is important and that EPA maintains numerous successful MOUs with many agencies. Nick said being part of the SSAB structure provides the Board with funding and requires DOE to respond to its advice. If the Board were completely independent, DOE would have no obligation to respond; Nick said the MOU ensures that function will continue and gives the Board a strong voice in the national SSAB. Nick thought it was important for the Board to move forward with the changes that eliminate any question of compliance.

Ecology

Jane said Nick stated it well. Ecology holds great value in the diversity of the Board and its advice, and was initially concerned about the proposed changes. Ecology expressed its concern to DOE and Jane said Washington State believes it has reached a good solution. Jane said attorneys general for the State reviewed the proposed changes and FACA case law, and were confident the MOU and OGR preserve the State's interest. Jane noted their interpretation of the TPA assumes the presence of a Board, but does not provide any specific requirements on governance; a charter versus an OGR is not a problem from the State's point of view. Jane said the MOU and OGR maintain two key elements: the diversity of the Board and the Board's ability to advise the State and other agencies.

Jane commented on the suggestion for the State to "have" the Board; she said because of state laws, if Ecology were to take on the Board, there would be some aspects of cleanup outside the legal nexus. Additionally, DOE would be under no obligation to respond to the Board. Jane said if it were a state board, it would be subject to very similar operating conditions, and possible more. The Board would also be associated with and affected by political term limits.

Jane said Ecology understands the Board's concern about an MOU, but the State has had success with MOUs and believes the process will remain transparent and visible. She said Ecology believes it will maintain the foundations of the Board.

DOE-RL

Dave said he has been extremely impressed with the Board and has learned a lot from it. He did not see the Board's functions changing with the MOU and OGR. He believed it provides and outstanding due process to sort through the myriad of opinion and fact at Hanford. Nothing in the proposed changes is trying to take that away. He said if he signs it, it is binding.

DOE-ORP

Shirley thanked the Board for its patience during DOE's extensive review period. She said DOE believes the OGR and MOU present the best solution for the Board and the agencies and will keep the Board operating as it is today. She said the Board is institutionalized and does not see it changing. Shirley believed the collective whole will ensure right decisions are made into the future.

Discussion and clarifying questions

Who proposed splitting the charter into an MOU and OGR?

Todd said DOE proposed splitting the charter into an MOU and OGR to make the Board FACA compliant and still preserve how the Board "does business." DOE proposed it because the Board would not accept term limits and needed to ensure its continued ability to advise Ecology and EPA.

Was the genesis for the changes to ensure legal compliance with FACA?

Dave said yes. Todd added that there is a DOE guidance manual of how to implement FACA within the agency. Some changes are in response to that manual.

What is the difference between OGR and a charter?

Todd said the current charter is called the HAB Charter and Operating Ground Rules; the change splits the OGR from the charter, which will become the MOU. FACA and DOE believes the only real charter is the EM SSAB Charter, which governs all the DOE advisory boards.

Is it true the Board has not heard from DOE why its proposed changes are not FACA compliant?

Todd said yes, there was no document provided citing why the proposed changes were not FACA compliant. Shirley said DOE provided a red-line strikeout copy of the Boards charter and proposed changes.

Has the Board seen DOE's red-line strikeout document?

Susan Leckband said Board leadership reviewed it but did not send it out to the rest of the Board because it was hard to read. There are copies at the back table. The copy sent to the Board was the same document without showing the strikeouts.

Are any Board functions lost due to the charter changes? I want to see the DOE red-line strikeout version of the charter

Jeff Luke said the Board should see what DOE's red-line strikeout changes and review what, if any, Board functions no longer exist and what was incorporated into the MOU and OGR. He said was less concerned with DOE wordsmithing, but wanted to know if DOE eliminated any Board functions. Shelly said she did not see any fundamental changes to Board operations. Gerry disagreed and said, for example, changing "shall" to "may" is a major shift in meaning.

Can the Board receive the DOE red-line strikeout version of the charter electronically?

Susan Leckband said it would be electronically provided to the Board.

Did DOE-HQ or the local field offices make the changes?

Todd thought DOE-HQ, DOE-RL and DOE-ORP worked on the changes together; Shirley confirmed that it was DOE-HQ and the local offices.

Are other boards dealing with FACA non-compliance issues?

Todd said all other DOE boards have revised their OGRs since 2006; the HAB is the last. Shelley noted that other boards consist of individuals, not representatives of organizations. She said term limits imposed on those boards have hurt their institutional knowledge. Nick said there was no substantive change in the process.

Does creating an MOU allow the Board to operate as it always has?

Todd confirmed that is the philosophy behind the proposal.

Is there a review cycle for the MOU and OGR?

Todd said the OGR would be at the purview of the agencies and the Board. The two-year review cycle is only for the EM SSAB Charter. Susan Leckband noted the Board can make a change to the OGR by the same 2/3 majority as with the current charter.

Was the EM SSAB Charter changed?

Todd said it was changed so that if the Board accepts DOE's proposed changes to the HAB charter (making it an OGR and MOU), then it will modify the EM SSAB charter to ensure compliance.

Does the Board currently appoint its own members?

Todd said because the Board is governed by FACA, DOE signs the appointment packages. The interest holding the seat puts forth a member nomination. Todd did not know of any instances where DOE rejected a nominee, but it holds that power.

Is the Board subject to the Public Meeting Act?

Jane said the HAB is not subject to the Public Meeting Act because it is technically not a public entity. Gerry disagreed and said the Board acts under DOE's auspice and provides advice to the TPA agencies, and is therefore subject to the Act.

Is the existing charter in the TPA?

Jane said the TPA loosely references the HAB. The TPA Community Relations Plan (CRP) is an appendix to the TPA and the Board charter an appendix to the CRP. Jane said the TPA does not require the HAB. Gerry disagreed and said the CRP is a legal requirement of the Federal Facilities Agreement. He said the charter is an appendices and is therefore part of the TPA and is enforceable, which is why it was essential from the beginning to have the charter in the Federal Facilities Agreement and the TPA.

Will the charter change affect the CRP?

Susan Leckband said accepting the MOU and OGR will replace the charter in the appendix to the CRP, which is an appendix to the TPA. Jane said the state's attorneys does not feel a TPA change package is required. The CRP will be updated to reflect the charter changes; there have been changes in the past that did not require a TPA change package. Gerry said the CRP required a change package and a public comment period under the TPA.

Will the Board's budget allocations change with the charter changes?

Nancy asked if DOE could reduce the Board's budget under the current charter and would they continue to be able to do so under the MOU and OGR; Susan said yes, budget decisions would remain the same.

From the CRP, Gerry provided the table of contents; Section 1: Information Resources and Public Participation Opportunities, and; Appendix C: Hanford TPA Community Relations Plan Update Process. He said the table of contents shows the Board is part of the TPA. Nick disagreed and said that was incorrect; Appendix C is an appendix to the CRP, which is an appendix to the TPA .

Sounding Board on the proposed HAB charter/operating ground rule changes

Opinions or statements relevant to the Sounding Board Board discussion on Thursday, June 5, 2008

Jeff Luke, Non-Union, Non-Management Employees (Hanford Work Force)

Jeff requested that Susan Leckband provide the U.S. Department of Energy's (DOE) edited version of the Hanford Advisory Board (Board) Charter and Operating Ground Rules (Charter) to see what was eliminated and how it was changed into a Memorandum of Understanding (MOU) and Operating Ground Rules (OGR).

Shelley Cimon, Public-at-Large

Shelley said she did not see anything in the MOU or OGR that fundamentally changes Board operations. She said she is tired and frustrated with the entire charter change process and thought the Board should move forward.

Gerry Pollet, Heart of America Northwest (Regional Environmental/Citizen)

Gerry said DOE never provided an explanation of how the Board's proposal (February 2007) was not Federal Advisory Committee Act (FACA) compliant. He said that is unacceptable, and that nothing beyond the Board's February 2007 proposal is necessary for FACA compliance.

Gerry said the Board was created through an agreement between the Washington State Department of Ecology (Ecology), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Energy (DOE) and a number of representatives of citizen groups, local governments and more. Gerry said the word "charter" came from a contractual document (Agreement) negotiated, enforceable and signed by Ecology, EPA and DOE. With that Agreement, DOE committed to chartering Boards at the identified waste sites. Gerry said anything short of such a charter could be eliminated at any time. He likened the Board's Charter to a constitution protecting minority rights, and cited the Federal Facilities Restoration Agreements (Agreement) advisory committee formal report signed by USDOE which committed to charters of boards enforceable under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Gerry said the Agreement states that Site Specific Advisory Boards (SSABs) are independent public bodies established to advise regulated and regulating agencies with respect to key cleanup decisions, and a charter is required at each site to advise the agencies. He also noted the Agreement states it does not believe it is necessary or prudent to federally charter boards.

Gerry said the citizen groups in the region had to agree not to seek or accept technical grant monies from EPA as part of the formal agreement chartering the HAB, because of their involvement with the Board; Gerry thought this would now have to change. He also stated that the Board's Charter is part of the Community Relations Plan, which is an appendix to the Tri-Party Agreement (TPA) and enforceable by the TPA.

Gerry reviewed some of the changes reflected in the proposed MOU. He said there is nothing in FACA prohibiting the Board from advising other agencies (i.e. Ecology and EPA). He noted the Board is required to maintain compliance with the Washington State Public Meeting Act, but such description was removed from Section I in the proposed OGR. Additionally, Gerry reviewed the following changes contained in the proposed MOU:

- Section II.B.c (membership) – Gerry said changing the language to read that Board membership "may include, but is not limited to the interested stakeholders listed below" is a significant change. He said it means membership is no longer mandated, and DOE can restrict certain interests or seats. Gerry said it violates prior agreements that created the Board.
- Section II.B.d (vacancy) – This section states interest groups shall submit no more than three names, rather than just submitting one. Gerry said it violates the agreement that regulators screen members, rather than DOE.
- Section III.C.a – Gerry said this section violates treaty rights.
- Section II.F (agendas) – Gerry said the changes made to this section mean the Board cannot control its own agenda.
- Section III – Gerry said nothing in FACA prohibits a charter.
- Section III.C (funding) – Gerry said that, under the current Charter, any citizen could sue under the TPA if DOE chose to eliminate Board funding. Now, the MOU states that the agreement is not a fiscal or a funds obligation document. Gerry said the funding requirement is lost, which is solely a DOE policy choice.
- Section III.D (enforceability) – The proposed MOU states "this Agreement is strictly for internal management purposes for each of the Parties. It is not legally enforceable..." Gerry said the proposed MOU is very different than a contract (i.e. the Charter), and could essentially be torn up.

Gerry concluded that nothing in FACA mandated the elimination of the Board's Charter or the creation of an MOU or OGR. He suggested that the Board request that DOE explain how the Board's suggested Charter changes submitted in February 2007 were not acceptable. He suggested the Board not act on the proposed MOU and OGR until DOE responds.

Gerry urged rejection and said DOE has not met its obligation to explain why the Charter needs to be changed, and the proposed changes are not required to meet FACA. He said the proposal violates a set of written and enforceable agreements with the State, EPA and DOE and citizen groups and local governments to create the board. Gerry said the Board cannot abrogate those agreements, which were made prior to the Board being created. Gerry thought the proposed changes make the Board's funding subject to

the “whim” of DOE and no longer an enforceable obligation, unless citizen groups take action over the abrogation of their rights as signatories or third party beneficiaries to the Charter and current TPA appendix.

Bob Parks, City of Kennewick (Local Government)

Bob noted that if the Board does need to meet the Washington State Public Meeting Act, it will take an effort to be compliant. He observed the agencies frequently violate the Act, such as when they respond via email to the majority of the Board.

Al Boldt, Government Accountability Project (Hanford Workforce)

Al supported Gerry’s comments and did not support changing the Charter if it works well today. He said DOE should respond to the Board’s February 2007 Charter proposal before the Board takes this any further action. He said if there is an MOU, it should reference the previous Charter and be more consistent with that Charter. Al proposed striking Section III.C, D and F.

Ken Niles, Oregon Department of Energy (State of Oregon)

Ken said he was frustrated with the DOE’s lack of response to the Board’s proposed Charter changes. He said there is wording he would like to change in the proposed MOU and OGR. However, he said if DOE had wanted to make the Board ineffective, it could have done that by cutting or eliminating its budget. Ken said putting aside his frustration with the process and some of the changes, he doubted that adopting the MOU and OGR would really impact the Board and its operations. Ken said the regulators seem to believe it will not change the Board’s operations and he generally agreed.

Todd Martin, Citizens for a Clean Eastern Washington (Regional Environmental/Citizen)

Todd noted the current Charter requires selection of an independent fiscal agent to manage the budget, something that has never happened. The Charter also requires implementation of a rotational membership schedule, which the Board has never done. Todd suspected that the motives for the Charter changes were questionable, and thought DOE wanted to institute term limits because of a desire to ultimately remove some people on the Board. Todd said the Board’s February 2007 effort to respond reasonably to DOE’s request to make the Charter FACA compliant reflected positively on the Board. He agreed that some of the changes proposed in the MOU and OGR are unnecessary, but did not think they will change Board operations. Todd said the Board’s culture and “way of doing business” is solid, and suspected the original reasons prompting the changes were gone and the Board has ended up with a workable agreement.

Maynard Plahuta, Benton County (Local Government)

Maynard agreed with Todd and Shelley. He was not concerned about whether or not the MOU could be torn up; DOE could abolish the entire SSAB if so desired. He did not think DOE would abolish the Board because the consequences would be too great.

Doug Mercer, University of Washington (University)

Doug said he wants the Board to persevere in its capacity to provide independent advice. He said this would happen because of the Board’s political status, knowledge, expertise and political visibility. He would be disappointed if there is a statutory or legal basis the Board can use to maintain itself that would be obviated by the MOU. Such legality would be powerful, but assuming the regulators are correct and that basis does not exist, Doug thought the Board would not lose any legal status with the proposed MOU and OGR. However, he wanted to ensure the Board could be assured it was not giving up any legal protection.

Harold Heacock, TRIDEC (Local Business)

Harold said the Board has to be FACA compliant and the regulators and DOE feel that the proposed MOU meets that requirement. He noted the TPA provides a basis for the Board. Harold did not see any reason to not agree to the proposed MOU and OGR.

Keith Smith, Public-at-Large

Keith said he was frustrated when first reading the proposed MOU and was troubled over which position to take. However, after listening to the Board discussion, Keith thought it really came down to relationships. Keith said relationships make the Board effective and the Board needs to get back to its business. He appreciated Gerry’s comments because it helped him better formulate his own opinion. Keith said despite disliking the changes in general, he felt the Board should accept them and move forward.

Ken Gasper, Benton County (Local Government)

Ken said the Board's success is partially based on positive working relationships rather than adversarial positions. He did not see the proposed MOU and OGR as impediments to the Board's work and he proposed accepting the MOU and OGR and moving on.

Pam Larsen, City of Richland (Local Government)

Pam compared the Board to other SSABs and observed that in contrast to other boards, the HAB's institutional knowledge makes it extraordinary. She said DOE appreciates the Board because of its ability to offer good advice. Pam said the Board's composition is worth protecting. She felt the Charter work has been exhausting and asked Board members to think about who they trust; she said if Todd and the regulators can live with the changes, she could, too. Pam also asked the Board to keep in mind the regulators' commitment to the HAB. Pam said it is time to move forward; if the situation gets rocky, the Board has the wherewithal to fix it.

Charlie Weems, Physicians for Social Responsibility (Regional Environmental/Citizen)

Charlie was frustrated with the changes and agreed with Todd, suspecting the changes grew out of DOE's problem with some Board members. But given that the Board actually does not have much control currently, and the proposed MOU and OGR do not seem to change that, Charlie said he saw no reason to object to the proposed changes.

Julie Jones, City of West Richland (Local Government)

Julie said she respected Board members' institutional knowledge, and advocated trusting that knowledge and opinions. She said the Board is powerful as a group regardless of changes; she agreed that the Board should move forward and accept the proposed changes.

Bob Suyama, Public-at-Large

Bob thought DOE and the regulators would lose a lot if the Board were to dissolve. He said the only constant in the world is change, and thought the Board should accept the changes and move forward.

Sounding Board

Board discussion on Friday, June 6, 2008

A sounding board is an opportunity for each Board member to speak for three minutes and express their opinion. Only one person could speak for each seat.

Laura Mueller, Non-Union, Non-Management Employees (Hanford Workforce)

Laura said she does not discount anything about the good relationship the Board has with DOE and how the Board conducts business. She said she wanted to ensure the public is empowered now and into the future. Laura also said she felt the Board was blindly accepting the proposed MOU and OGR without DOE explaining why they chose this path in the first place. She would feel more comfortable with assurance from DOE in writing that the Board would be able to continue to do business as usual.

Steve Hudson, Hanford Watch (Regional Environmental/Citizen)

Steve said he was originally persuaded that accepting the proposed MOU would compromise the Board. However, as the discussion proceeded, he said he was persuaded that if the Board failed to accept the proposed MOU it would fail to meet its responsibility to the people. He thought prolonging the debate did not serve anyone; he said he supports accepting the MOU and OGR and the consequences of such a decision.

Doug Mercer, University of Washington (University)

Doug said in the absence of assurance that there is a statutory legal basis upon which the Board can maintain its independence, he did not see it was worth fighting the proposed MOU and OGR. In addition, Doug said he did not see willingness on the Board to fight that fight, so he supports accepting the changes.

Debra McBaugh, Washington State Department of Health (Ex-Officio)

Debra said she is an ex-officio member. She said the Board is worthwhile and she appreciates its work. Debra was not under the impression that anything would change if the Board accepts the proposed MOU and OGR. She said continuing the Board and its work is the most important thing.

Gerry Pollet, Heart of America Northwest (Regional Environmental/Citizen)

Gerry said he was dismayed at the lack of preparation for the Charter discussion and how the Charter issue was handled from the beginning. He wondered why the Board was rushing to a decision and why members were not given materials up front. He thought it was ironic that people were advocating accepting the proposed MOU and OGR because DOE could dissolve the Board if they do not accept them, but were also saying how DOE could never dissolve the Board and that the Board should trust DOE and the regulators. Gerry said DOE is required to respond to Board advice, and it never responded to the Charter advice put forth in February 2007. Gerry said wording changes in the MOU are critical, such as when changing “DOE is required” to “the Board requests.” Gerry said everything has become discretionary and the Board will slowly be cut to pieces. Gerry said DOE owes the Board an explanation of why it changed the Charter to an MOU and how it is necessary to do so under FACA. Gerry proposed waiting on taking action until DOE responds to the Board’s February 2007 advice.

Charlie Weems, Physicians for Social Responsibility (Local and Regional Public Health)

Charlie agreed with Gerry.

Mike Keizer, Central Washington Building Trades (Hanford Workforce)

Mike said he was willing to accept the proposed MOU.

Ken Niles, Oregon Department of Energy (State of Oregon)

Ken said he was not thrilled with the process and does not like some of the changes. However, he did not think it would impact how the Board operates: if there is intent in the future to change how the Board operates, the Board has the political muscle and wherewithal to deal with it. He said he could accept the MOU.

Harold Heacock, TRIDEC (Local Business)

Harold said the Board has to be compliant with federal requirements; the MOU accomplishes that and provides for the independence of the Board. He thought the Board should accept it and move on with its business.

Steve White, Columbia Riverkeeper (Regional Environmental/Citizen)

Steve said there is a long history of mistrust with DOE. He said he trusts Todd and his perception of the situation. He also said he believes that no decision is worse than a bad decision.

Armand Minthorn, Confederated Tribes of the Umatilla Indian Reservation (Ex-Officio)

Armand said from experience, MOUs have legal loopholes and in some instances are not legally binding. He said one of the better things about any board or committee is how a group of people can reach consensus. He said he does not like change – why change something that works and represents everyone? Armand said when a board or committee speaks with one voice the function of that group will always be the same.

Julie Jones, City of West Richland (Local Government)

Julie said from her short time on the Board, she has been impressed by DOE’s commitment and felt that the local offices have worked hard on the Charter issue. She was happy to see that Ecology and EPA do not see problems with the proposed MOU and OGR. She said Todd’s presentation was convincing and she is ready to move forward with the MOU.

Keith Smith, Public-at-Large

Keith said he has never been comfortable with an arrangement without a signature or document enforceable by law. On the other hand, he said, sometimes a name on paper is worthless. He said it is about relationships and a certain measure of trust. He said he heard Gerry’s arguments, but a paper is still just a piece of paper and he did not think changing the Charter would make much of a difference. Keith said he supported the proposed MOU and OGR.

Rick Jansons, Benton-Franklin Council of Governments (Local Government)

Rick said the issue is about trust and power. He said he trusts the current DOE representatives, and in this case, DOE does not seem to have all the power. Rick said the power of the Board is in the people and in its democracy. He thought DOE would be ill-advised to mess with the Board and its seats. Rick said he supported the changes.

Emmett Moore, Washington State University (University)

Emmett said whether he likes it or not, the Board is a creature of DOE that can be ended by DOE. He said FACA calls for a charter for an organization to exist, and DOE proposes an MOU replace the charter. Emmett said the Board would technically not exist under FACA if its charter disappears.

Wayne Lei, Oregon Hanford Cleanup Board (State of Oregon)

Wayne said he prefers a charter.

Dick Smith, City of Kennewick (Local Government)

Dick said he has mixed feelings about the proposed MOU. He said he would like to see DOE's response to the Board's original proposal to determine what they thought was inappropriate and why. However, Dick said, he was not sure the Board has much of a choice. He asked if the Board needed to decide on this today – is there a time requirement? He said if it were possible to get a response from DOE about the Board's Charter change proposal, he would propose delaying the decision. He was not confident it would make a difference, though.

Susan Kreid, League of Women Voters (Regional Environmental/Citizen)

Susan said she read the current Charter, FACA and DOE websites, and began to appreciate the difference between the Board and other SSAB chartered boards. She said she realized how significant it is that 1) the Board is composed of organizations, not individuals, and 2) the Board advises DOE, EPA and Ecology. She said the proposed MOU and OGR preserve those two very important things. She did not think the MOU was perfect, but it allows the Board to continue its work.

Margery Swint, Benton-Franklin Public Health (Local and Regional Public Health)

Margery said she has been on the Board for at least 11 years and has never felt threatened or pressured by the agencies. She thought the Board should accept the proposed MOU and OGR.

Bob Suyama, Public-at-Large

Bob said the only constant in life is change. He thanked Gerry for providing information and while Bob did not like some of the wording in the MOU, he said the Board should agree to it and move forward.

Maynard Plahuta, Benton County (Local Government)

Maynard thought everyone agreed they would rather keep their current Charter. However, he did not think the Board is jeopardizing itself by moving forward with the proposed MOU. Maynard thought it would be virtually impossible for DOE to eliminate the Board because its political power is too strong. He supported accepting the MOU.

Bob Parazin, Public-at-Large

Bob said he was surprised by the diverse discussion. Bob felt DOE could easily eliminate the Board. He used a boat analogy: both the sail and motor power a boat. The motor is the legality, which one could do without if it was eliminated because the boat also has the "sail" of political will and trust. The boat could encounter trouble, however, if the sail is not positioned correctly; too much sail and the boat will capsize, too little wind and no progress is made at all. Bob thought DOE put the time into the changes for their own interest, not the interest of the Board or public. He also thought they are faced with powering the boat with only a sail and having to set it so it picks up the political and popular wind without capsizing. Bob said that without a "motor," he is not in favor of the MOU.

Norma Jean Germond, Public-at-Large

Norma Jean thanked everyone who worked on the Charter issue. She thought the Board could be dissolved, but there would be trouble along the way because of its history and symbiotic relationship with DOE and the agencies. She said in the long run, the Board has been valuable to DOE because the seats represent different interests that can influence Congress and therefore affect DOE's funding and work. She did not particularly like the MOU, but did not think there was much of a choice. Norma Jean thought the Board would be a force to reckon with if DOE tried to eliminate it.

Pam Larsen, City of Richland (Local Government)

Pam said the Board should accept the proposed MOU and OGR now. She said the Board received DOE's response to their original proposed changes in the form of this MOU. She thought they were close to consensus. She noted her predecessor was opposed to committees when the Board was chartered and so did

not agree to the Board's chartering, but it turns out committees are invaluable to the Board. Pam thought it was fine to proceed even though people may have differences of opinion. She thought the Board should vote, move forward and live comfortably without consensus.

Todd Martin, Citizens for a Clean Eastern Washington (Regional Environmental/Citizen)

Todd said he had serious reservations about the charter change process and was not completely happy about it. He said he is fully supportive of the entire MOU and originally wanted it to go forward without any changes. He said he was surprised at DOE's unwillingness to respond to the Board's February 2007 proposed changes. He referred to two changes that he would like DOE to agree to make to the MOU and OGR: 1) revise the statement that the Board could not hold a meeting without the deputy-designated federal official (DDFO) in the room, and 2) delete the section referring to Board voting procedures on changing the OGR. Todd said with those two changes, he would fully support the MOU and OGR.

Gene Van Liew, Richland Rod and Gun Club (Regional Environmental/Citizen)

Gene said he was confident the MOU would work fine and it is time to trust and move forward.

Susan Leckband, Non-Union, Non-Management Employees (Hanford Workforce)

Susan said she would like to come to resolution on the Charter. She said it is a distraction and the Board should move forward. She said the Board could 1) accept it as is, 2) accept it with Todd's changes, or 3) reject it. Susan said she would do what the Board believes is the right thing to do. She thought the Board has the power it has always had, and a piece of paper will not change it.

Agency perspective

Ecology

Jane confirmed the facts provided earlier with State counsel. The State of Washington considers the Board a partner and will continue to ensure that continues into the future. Ecology finds Board advice very valuable.

EPA

Nick said like Ecology, EPA finds great value in the Board. He did not see the proposed changes jeopardizing the Board's ability to provide good advice. Nick encouraged the Board to move on.

DOE

Steve said DOE's senior management is very clear: DOE is very supportive of the Board and works hard to maintain and continue to improve an open and transparent process. He said there is nothing in the proposed changes that would cause DOE to want to do business any different.

Discussion

The Board discussed its path forward and identified the four options available today: 1) agree and accept the proposed MOU and OGR exactly as they are written, 2) agree and accept the MOU and OGR with the changes Steve committed to making, 3) not agree and take no action, or 4) delay the decision. The Board deliberated over those decisions.

Rick asked if DOE could make the two changes Todd proposed: 1) revise the statement that the Board could not hold a meeting without the deputy-designated federal official (DDFO) in the room, and 2) delete the section referring to Board voting procedures on changing the OGR. Steve committed to revising the DDFO statement to say DOE will provide a DDFO or a representative appointed by the DDFO, and revise the *Revising the OGR (Section XII)* affirmative vote to 2/3 rather than 1/2 for consistency and to reflect current Board practices.

Ken Niles said he would like DOE to fix obvious grammatical errors and typos in the MOU and OGR. He said it seemed like a "take it or leave it" situation, and DOE has disregarded all the Board's work with the charter. He wanted to make changes and accept the charter today.

Penny noted that the current charter, which is still the adopted document governing the day's meeting, indicates the Board should attempt to reach consensus before going to a vote that requires a 2/3 majority. The Board's preference is always consensus.

Pam thought the Board should vote and put forth the MOU and OGR with the changes to which Steve committed.

Todd asked the Board to consider trying for consensus first and possibly postpone the decision until the September Board meeting. He thought it would be interesting to see how DOE would respond if the Board were to accept the changes exactly as they are (without the changes Steve committed to, or grammatical and typo corrections).

Bob Suyama asked if the Board delayed its decision, would it receive a response from DOE on how the Board's proposed changes did not meet FACA guidelines; Susan Leckband doubted it.

Doug said he was amazed at the eloquence of the Board; he said it has an incredible capacity to understand and articulate what is happening at DOE and to respond at a political level if DOE does something not in their best interest. He asked if the Board reaches consensus, is there a product? Is there a way to articulate the Board's feelings for the public and DOE-HQ? Susan Leckband said the Board would send a letter with the Sounding Board attached. Todd suggested attaching the MOU and OGR to ensure communication is based on the current versions.

Doug thought the Board should consider issuing advice on process issues that are a consequence of accepting DOE's MOU and OGR. He said they could specifically design advice to solicit a response from DOE. Susan Leckband said he could work with the committees and bring draft advice to the Board.

Armand thought the Board was giving DOE too much credit. He said change can only happen when everyone agrees to change, which is why consensus is so wonderful. He said life is change, but some things will never change – that is called tradition. Armand said the Board has made its own tradition; something that is lived, strengthened and protected.

Charlie asked if absent Board members could leave a proxy. Susan Leckband said no, that is not the Board's process.

The Board revisited its options for the day and arrived at two remaining options: testing for consensus or delaying the decision to accept or not accept charter changes. Armand supported delaying the decision. The Board asked him if he could live with the Board deliberating on a decision today. Penny said the Board would still have to seek consensus on the changes, but first the Board must reach consensus on whether or not to continue moving forward today and not delaying the decision.

Some Board members pointed out that CTUIR and the Washington State Department of Health are ex-officio members; Penny noted it is still good process to gain consensus from all. Debra asked for clarification on whether or not ex-officio members could block consensus. Penny said ex-officio members are non-voting members who may participate in Board discussions and deliberations, but will refrain from voting when the Board is determining what procedural direction to take.

If the general feeling of the Board is to move forward with the decision today, Todd noted that Armand could either stand aside and not participate, or block consensus.

Armand said under protest, he will stand aside.

Board members deliberated over agreeing to the MOU and OGR with Steve and DOE-ORP's agreed-upon changes.

Laura Mueller, Hanford Work Force (Non-Union, Non-Management Employees), did not think the Board would reach consensus on the charter. Laura thought the process the Board was currently operating under drove it to a vote on the charter changes, rather than strive for consensus. She also thought that in good faith, the Board could not say it reached consensus without having all members present. Todd noted that the charter, under which the Board is still currently operating, requires members to register their dissent prior

to the meeting if they will not be there. He suspected Susan Leckband could contact Gerry Pollet, for example, and offer him a chance to formally register his dissent. Bob Suyama said all absent members should get the same chance to register their dissent.

Bob Parazin did not consent to the proposed path forward of testing for consensus on the proposed charter changes. He said he would like to see the Board vote on the changes, and said he was speaking on behalf of Hanford Challenge and Heart of America Northwest. Todd asked if Bob how he would like his dissent registered; Bob said he would stand aside. It is also recorded that Hanford Challenge and Heart of America Northwest will stand aside.

Laura asked when the Board will vote. Penny clarified the Board's process of always first attempting to reach a decision by consensus, which is still possible even with people standing aside. The Board will vote only if consensus is not reached.

Todd reminded the Board that it uses its current, existing process (the charter) to decide if it will make changes to the process.

Wayne Lei blocked consensus. Under current the Board's current charter and procedures, the Board went to a vote by show of name tents.

Twenty one (21) seats, greater than 2/3 of seats present, voted to accept the MOU and OGR with DOE-ORP's commitment to revise the DDFO statement to say DOE will provide a DDFO or a representative appointed by the DDFO, and revise *Section XII Revising the OGR* affirmative vote to 2/3 rather than 1/2 for consistency and to reflect current Board practices. There will be no minority report because the decision went to a vote.

Susan Leckband will draft a cover letter and attach the Sounding Board and relevant discussions regarding the charter changes.

SX Tank 104

Steve Wiegman discussed the possibility of a leak at tank SX-104. He said DOE has not declared a new "leaker" in a long time and is carefully evaluating the situation. SX Area is highly contaminated and DOE wants to look at it closely. In 1988, SX-104 was declared an assumed leaker based on the change in the interstitial liquid level. The tank has a large amount of sludge and the liquid is intermixed in the system. The tank was interim stabilized, but Steve noted the 40,000 gallons of liquid currently caught in the waste matrix could leak if given the opportunity. The liquid waste remains a liquid as long as it is warm, but becomes a non-moveable gel when cooled. Steve said the liquid observation well has shown variations over the years, and is often related to barometric pressure. DOE has also yet to find indication in surrounding dry wells that the tank is leaking.

Steve said DOE entered an evaluation process because of the drop in the apparent tank waste level. DOE is checking the level on a weekly basis, and it appears that it may have increased. Steve said he could share exactly how DOE performs such evaluations with the Tank Waste Committee (TWC), as well as discuss what DOE knows about past leakers, what it is learning and how it fits in the context of SX-104. Steve said there is a theory that water injected into surrounding dry wells backs up and pushes on the tank waste, settling over time.

Currently, Steve said there is no determination that SX-104 has leaked again; in fact, DOE is unsure if it ever leaked given what they know about temperature influence. He said the analysis will be concluded in the next couple weeks.

Discussion

Dick asked if DOE has a plan of action in case SX-104 did leak. Steve said DOE had a specific response plan for a leaker, but given the variations in what could possible happen, DOE determined it was not practical to follow just one plan. Steve said they decided to follow potentially leaky tanks closely and develop a plan as needed. At this point, Steve said there is no specific response plan.

Suzanne Dahl, Ecology, said DOE briefed Ecology and Steve characterized the situation well. SX-104 is close to the double-shell tank system. The waste is coagulating and would be difficult to retrieve. Ecology is internally discussing response plans.

System Plan Revision 3

Ken Gasper said the System Plan Revision 3 reviews all the ramifications of the Waste Treatment Plant (WTP) delay, something the Board advised in HAB Advice #192. TWC has worked closely with DOE and is reviewing the plan.

Agency perspective

Steve said DOE has talked frequently with TWC about how the System Plan fits into the DOE-ORP baseline. He said Ines Triay, EM deputy assistant secretary, re-endorsed baseline workshops with which DOE will move forward.

Steve said the System Plan Revision 3 focuses on an analytical evaluation of how the Hanford cleanup mission will be completed. It looks at the entire flow sheet. In the third revision, DOE tried to modify the tank farm baseline so it fits with WTP startup. Steve said they did not know when WTP would be ready when it submitted the tank farm baseline.

The flow sheet looks at all streams, retrievals and waste movements; Steve said assumptions are critical and it is a complex analytical process. DOE wants this analysis to be as reflective as possible of how the system will actually operate. Single-shell tank retrieval durations are more realistic now and the WTP startup date was corrected, as were its components.

Steve described the single-shell tank waste volume timeline and curve as a reduction of single-shell tank waste over time. DOE has removed pumpable liquids and started moving waste into double-shell tanks, but it needs to accelerate the process.

Total double-shell tank space utilization illustrates the double-shell tank capacity of the entire system. The System Plan identifies space for more waste, space necessary for emergency purposes, and how much DOE will move from the tanks.

Single-shell tank retrievals are mission duration drivers and will set the pace of cleanup. Steve said the analysis confirms that if DOE does not go after single-shell tank retrievals more aggressively, it will reduce the productivity of WTP. Steve noted that if single-shell tank retrievals were not the pacing driver, it would be low activity waste treatment capacity. He said the System Plan analysis helps DOE think about the problems, plan accordingly, and identify its priorities.

Discussion

Ken Niles said how cleanup and WTP operations will proceed if DOE cannot increase the pace of retrievals. Steve said the key is to perform retrievals while WTP is operating. He said there is not enough money or capacity to move all single-shell tank waste into double-shell tanks until WTP processing begins. Ken said it is hard to hear that once WTP is in operation, DOE will only be able to do a certain number of retrievals. Steve said he shared that concern.

Dick thought the System Plan Revision 3 is a quality document that reflects Board readability advice. However, he was disappointed by the exclusion of some issues, like sensitivity cases that were only partially presented. He thought it was a good first step but all the alternatives need to be reviewed.

Ken Gasper supported Ken Niles concern about single-shell tank retrievals. TWC worked with BCC so FY 2009 and FY 2010 budget advice adopted in April reflected such concerns. Ken said the plan only begins to mention emerging issues such as the total quantity of sodium that needs to be processed and can affect the duration of capacity. He said TWC will seek issue managers meetings.

Harold thought the plan provides a path forward but leaves some questions unanswered. He thanked DOE-ORP for its cooperation. While there are still gaps, Harold said he was happy to move forward with a defensible document to discuss.

State of the Columbia River

Ann Williamson, EPA Region 10 Office of Environmental Assessment, and Mary Lou Soscia, EPA Region 10 Office of Water and Watersheds, presented on reducing toxics in the Columbia River through partnerships and collaboration. They discussed the history of EPA Columbia River efforts, the rising concern over toxics (fish consumption and contamination), the Columbia River as a national EPA priority, and the Columbia River toxics reductions strategy.

Mary Lou said it is important to remember the context in which EPA and other organizations work: the Columbia River Basin is huge, spanning two countries, and has been used by tribes for time immemorial.

Mary Lou highlighted the history of key Columbia River efforts to show the vast work done and being done, which include:

- 1989: Lower Columbia River bi-state program
- 1991: EPA completes dioxin total maximum daily load (TMDL)
- Clean Water Act 303(d) listings and TMDLs of contaminants under the Clean Water Act
- 1992: National study of chemical residues in fish; high fish contamination in the Columbia River
- 1994: Fish consumption survey of the Umatilla, Nez Perce, Yakama and Warm Springs tribes of the Columbia River Basin
- 1996: Designation of the Lower Columbia into EPA's National Estuary Program (a nationally significant event)
- Superfund sites along the Columbia River: Hanford (1989), Portland Harbor (2000), and Lake Roosevelt Tech Cominco Agreement (2006)
- 2000: Bradford Island Cleanup (Oregon Department of Environmental Quality (DEQ) and Army Corps of Engineers)
- 2001: EPA, Idaho, Oregon and Washington agree to begin work on Columbia River and Snake River temperature and total dissolved gas (TDG) TMDLs
- 2002: EPA Columbia River Basin fish contaminant survey
- 2006: EPA approved Snake River TMDL (mercury, temperature and other parameters)
- 2006: Columbia River designated EPA Critical Aquatic Ecosystem
- 2006: EPA, Oregon DEQ and CTUIR agree on fish consumption rates process for Oregon Water Quality Standards
- Other efforts are currently underway, including Hells Canyon relicensing

Mary Lou said it is important to have an equal understanding of what toxics are: Toxics are chemical inorganic substances that can produce illness or damage to an organism, a plant, or to a substructure, such as a cell or an organ. Toxicity can be measured by the effects on the target: individuals typically have different levels of response to the same dose of a toxin, a population-level measure of toxicity is often used which relates the probability of an outcome for a given individual in a population.

Mary Lou said they are starting to see the general public paying more attention to toxics. She noted a Seattle Times article that illustrated how toxics move up the food chain. Another article covered the sturgeon above Bonneville dam exhibiting more toxins than those below the dam. Mary Lou noted that crayfish contamination at Bradford Island behind Bonneville dam was so great that crayfish had to be removed as hazardous material.

Mary Lou described in more detail the Columbia River Inter-Tribal Fish Commission (CRITFC). In 1992, tribes were concerned about salmon recovery efforts and how their exposure level may change if salmon populations increase and they increase their salmon consumption. In 1994, a survey performed in cooperation with the Center for Disease Control (CDC) showed that tribal people consume higher amounts of fish than the rest of the US population. Mary Lou said it should tribes consume about ten times more fish than the rate EPA used for its water quality criteria for general public consumption.

In 2002, a fish contaminant survey conducted at 24 tribal fishing sites found 92 pollutants in fish consumed by tribes and other Columbia River consumers (e.g. recreational fisherman). Chinook, steelhead trout, smelt, Pacific lamprey, rainbow trout, mountain whitefish, white sturgeon, walleye, large-scale sucker and bridgelip sucker were tested. The Oregon Environmental Quality Commission (EQC) adopted a revised fish consumption rate of 17.5 grams per day and submitted it to EPA in 2004. The Umatilla Tribe raised concerns in government-to-government conversations with EPA and EPA began executive discussion with the states and tribes to revisit the standard. In 2006, EPA, Oregon and the tribes agreed to work on a two-year public collaboration process to revisit the standard and are currently developing public policy, scientific and economic information to provide a recommendation to the Oregon EQC in October 2008 and make a final decision. Mary Lou noted it is a regional issue: Washington's current consumption rate is 6.5 grams per day, and EPA expects a similar revision effort in Washington and Idaho. Mary Lou said there needs to be a coordinated effort and a basin-wide strategy to reduce toxics. The Lower Columbia River Estuary Partnership is leading the effort in the lower Columbia River and EPA is leading the effort above Bonneville dam and up to Idaho and Canada.

Ann said to make EPA's major work effort on the Columbia River more prominent, it felt it was important to raise it to the national agency level. Every five to six years, EPA develops a national strategic plan and it identifies by media what initiatives are underway. In 2002, EPA Region 10 prioritized toxics, conventional pollutants and physical habitat alterations, and biological resources. Based on that work, in 2006 the Columbia River and Puget Sound were nationally designated as a "Large Aquatic Ecosystem" and included in EPA's 2006-2011 Strategic Plan.

The 2006-2011 Strategic Plan goal for the Columbia River is by 2011, to prevent water pollution and improve and protect water quality and ecosystems in the Columbia River Basin to reduce risks to human health and the environment. Measurable targets were necessary to justify the goal and to be held accountable. The targets include:

- Protect, enhance or restore 13,000 acres of wetland habitat and 3,000 acres of upland habitat in the Lower Columbia [lead: Lower Columbia River Estuary Partnership (LCREP)]
- Clean up 150 acres of known highly contaminated sediments [Oregon DEQ, EPA and others].
- Demonstrate a 10% reduction in mean concentration of contaminants of concern (COCs) found in water and fish tissue [EPA]

Ann said EPA is responsible for managing the 10% reduction target. Toxic reduction actions are already underway; Ecology began TMDL implementation in the Okanogan, Yakima, Walla Walla, Wenatchee, Similkameen and Spokane. The Pesticide Stewardship Program is underway in Walla Walla, Clackamas and Pudding River Basin. Ann said the Walla Walla Legacy Agriculture Pesticide Collection program collected 7,630 pounds of waste; 800 pounds of DDT were collected from farmers in the Pudding River Basin.

The Columbia River Toxics Reduction Working Group was formed to prevent and reduce toxic levels in the Columbia Basin, including reducing toxics in aquatic species that people eat and ensuring the survival, reproduction, and growth of the fish and wildlife. The Working Group is the lead on the State of the River Report, a report that will tell an important story about the Columbia River and help EPA move collaboratively and purposefully, and get the information out to the public. Ann said the State of the River Report will:

- Inform and educate the public on toxic problems and potential solutions for the Columbia River Basin
- Serve as a catalyst for increased stakeholder involvement and future action
- Garner resources for future toxics reduction and assessment efforts

Ann thanked DOE for providing funding support for the Working Group.

The report will discuss toxic contaminants; indicators; status and trends for mercury, DDT, PCBs, and PBDEs (four priority pollutants); ecosystem health; current and planned toxics reduction efforts; and establish an action agenda. The Working Group will have a draft at the end of June 2008 and will finalize the report in late 2008. The next meeting is June 10 in Hood River.

Mary Lou said there is no new data for the report, but rather EPA and others are gathering all available information on the four priority pollutants and indicator species. Indicator species are species living in the

river or dependent on food from the river that, when studied over time, help scientists track changes in ecosystem health. Indicator species evaluated in the report include:

- Salmon (juvenile and adult)
- Resident fish, both native and introduced (e.g. sucker, bass and mountain whitefish)
- Sturgeon
- Predatory birds (osprey and bald eagles)
- Aquatic mammals (mink and others)
- Sediment dwellers (Asian clams)

The toxic COCs discussed in the report are:

- DDT
 - Banned in 1972, still persists in the environment
 - Primary source is agricultural soils in which DDT accumulated over three decades of regular use
 - DDT levels have declined but are still above levels of concern in some areas
 - Rebound in populations of fish-eating birds such as osprey and eagles since the 1970s
- PCBs
 - Main sources are industrial sites and old disposal sites
 - Though levels generally have declined in the basin, PCBs persist at levels of concern at many locations
 - As data is collected on PCBs, new contaminated sites continue to be discovered
 - Large data gaps in the basin
- Mercury
 - Air deposition is the greatest source to the Basin, primarily from global sources; Mary Lou called it a “grasshopper pollutant”
 - There are local and regional sources such as historic mine tailings, current mine air emissions and point sources
 - Most Fish Consumption Advisories are due to mercury
 - Levels of mercury have increased in osprey in the Lower Columbia between 1997 and 2004
- PBDEs
 - A new and emerging contaminant
 - Sources include flame retardants used in furniture, clothing and electronics
 - PBDE bans exist in Washington, Maine, California, Hawaii and the European Union
 - Lab tests show that PBDEs are neurotoxins and endocrine disrupters that interfere with the thyroid gland

These contaminants were selected because of their wide distribution and level of concern throughout the Columbia Basin; they may have adverse effects on wildlife, fish and humans; and EPA has the opportunity to build on current reduction efforts.

Mary Lou said EPA will accept comments from the Working Group through the end of July.

Discussion

Ken Niles asked if PBDEs are used as flame-retardants for wildfire fighting; Mary Lou said yes. Ken asked if Cominco is still a big polluter; Mary Lou thought Ecology did not have enough information for that particular work effort to have a good answer.

Ken Niles said a huge amount of data has been revealed over the past 20 years. He asked if he should be optimistic or pessimistic right now – is pollutant prevention and cleanup on the right track? Ann said both; good work has happened and there are improvements as a consequence of banning toxics like DDT. Aggressive efforts are underway to prevent those pollutants from getting into the environment. However, Ann said the work is not done. EPA and others have not figured out what the toxics problem really looks like in the mainstem Columbia River. Ann said while this is alarming, it’s good that they are paying attention and committing to doing something about it. Tribes raised the issue of an appropriate fish consumption rate and EPA is tackling it. Ann said the Columbia River is an amazing resource in many ways and there is work to be done.

Mary Lou said some people would say EPA is crazy to start a new program during these difficult budget times. EPA is fighting to get money for the program because it is a visible public problem

Bob Parks asked how EPA picks where to sample. Mary Lou said there is no systematic sampling program currently underway; the current samples are a “snapshot,” which is ideal. EPA worked with USGS, Washington, Oregon, and others to come up with a sampling design. The current work effort includes building a systematic sampling program over the long-term. Ann noted that there is a lot of data out there and EPA is challenged to obtain the information and use it in a meaningful way. She said it does not represent entire basin.

Bob Parks asked if PBDEs are still used in fire retardants and furniture making; Ann said yes, whenever someone washes their clothes in a machine built with PBDE, it shows up in the environment. Bob commented that everyone is a contributor.

Bob Parks asked if the US tested imported products to make sure they do not contain DDT, for example. Ann thought that is the responsibility of a different US agency.

Keith asked how EPA established its methodology for the sampling data it chooses to use. Mary Lou said EPA scientists reviewed studies and their methodologies, worked with other agencies, and established screening criteria for what studies should and should not be included.

Keith asked how the 16,000 acres in Portland Harbor is being assessed and cleaned up. Mary Lou said the cleanup focuses on 150 acres, and EPA is putting together information to share with the public about how it reviewed and used data. She said suction dredging was used at Bradford Island. Ann said they sorted out good material from the bad at Bradford Island. She also noted PCBs are very problematic – they cannot be burned and they leach out of cement.

Todd asked where the sediment cleanup standards came from for Portland Harbor. Ann said she did not precisely know the contaminant problem in Portland Harbor, but she suspected it’s primarily metals and PCBs; that cleanup has worked directly with EPA-HQ. Todd commented cleanup standards were probably developed specific to Portland Harbor; Ann agreed.

Todd asked if EPA has done any public outreach yet and will it go out to the public after the report is published. Mary Lou said everyone is invited to Working Group meetings and they are working with Columbia River Keeper. Right now, EPA is in the working phase of the report, but it does want to share information with the general public and have a public conversation. Ann noted that it is a little premature to have a general public conversation; the contributors need to work on the report first and then EPA can host outreach events. EPA is working on a communications strategy.

Doug asked what proportion of contamination comes from non-point sources. Ann did not know and said there is no clear case of a particular industry being the culprit. PCB contamination is classic non-point source contamination.

Doug asked if EPA had a sense of when they expect to see the 10% reduction in fish tissue and/or water at the five sites. Mary Lou said committed to showing progress to EPA-HQ by 2011. Doug asked if there was funding assurance through 2011 and into the future. What happens if they do not reach a 10% reduction by 2011? Mary Lou said they are currently in a mid-term review of their measures with EPA-HQ. One measure is the DDT reduction they are seeing in the Yakima Basin. Mary Lou said that reduction is due to people from Ecology, farmers, and tribes working hard to reduce it. She said in Walla Walla, EPA Region 10 is working with farmers on best management practices, like not washing equipment off in streams. Oregon is monitoring fish and Mary Lou suspected they are seeing greater than a 10% reduction in toxics. Nick added that Region 10 supports the entire effort, even if EPA-HQ backs off. He noted the rate of reduction may be dependent on funding, but Region 10 will not back away from its commitment.

Doug offered to help Mary Lou and Ann find the right contacts at the University of Washington.

Ann commented that Congressman Norm Dicks has been a strong advocate for Puget Sound cleanup. She said they have to demonstrate to senators and legislators that the Columbia River is an important body of

water that needs to be cleaned up. The Columbia River is the only river designated a Large Aquatic Ecosystem by EPA. Ann said they need and intend to heighten awareness in the region.

Mary Lou noted that she has been involved with watershed councils and salmon habitat restoration; toxics are daunting for people. EPA is trying to figure out how to involve watershed councils throughout the Northwest in the toxics reduction effort.

Margery said there should be health studies comparing Native Americans eating large amounts of fish to those that do not. Mary Lou said Oregon Health and Science University worked on the Oregon fish consumption study and will continue to work on human health studies.

Richard Leitz, Franklin and Grant Counties (Local Government), commented that he manufactures farm fertilizers and there are more restrictions on fertilizers than on food sources. He noted some incongruity in the fact that Congress passed an act requiring the use of different light bulbs, when in fact the use of such bulbs will increase mercury levels. Mary Lou shared his concern.

Rob asked if there was a federal advisory board for the toxics reduction effort. Mary Lou said anyone can join the Working Group, but it is not a federal advisory board. She welcomed anyone to the Working Group.

Rob asked if EISs are used in the cleanups; Nick said Portland Harbor cleanup is performed under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and CERCLA does not require an EIS prior to a cleanup. Nick directed Rob to Section 303(d) of the Clean Water Act.

Susan Leckband thanked Ann and Mary Lou for the presentation and noted it would be posted on the HAB website.

Agency Updates

DOE-ORP

At tank S-102, Erik said workers have excavated 60 drums since cleanup started on February 15. The target finish date is the end of September. DOE and its contractors have completed 95 corrective actions and verified 61 of them; all will be verified. DOE issued a preliminary notice of violation to CH2MHill at the cost of \$302,500. He made a press release available to the Board.

Erik described the newest retrieval tool at tank C-109. The robot is working, but one of the treads came off yesterday and CH2MHill is evaluating its path forward because it had not planned to take the robot out of the tank. If they have to do that, it may require additional mobile retrieval robots. Erik said the robot is still operating and moving, but CH2MHill is unsure of its success in its current condition.

Erik noted workers install an AZ-102 transfer pump to help the process of preparing waste for WTP. He also commented on a three dimensional computer program developed by CH2MHill to help ensure valves are aligned properly during removals. The T-Farm interim surface barrier is 100% complete and workers are collecting data to look for soil and moisture changes.

WTP construction continues; Erik recommended a tour. Overall, WTP is 46% complete and employs approximately 1,100 workers. Erik showed a time-lapse photograph showing the arrival, placement and assembly of skids comprising the pretreatment engineering platform. Erik said the platform is complete and they expect to begin testing the system late this summer and run simulated waste through in October.

DOE announced last week that Washington River Protection Solutions was selected as the tank operations contractor. Erik provided their website www.wrptoc.com and said the Tank Operations Contract Request for Proposal can be viewed at www.hanford.gov/cpc.TOC.com. He said it is called the “model contract.” He will send the link to EnviroIssues for distribution.

DOE-RL

Matt McCormick provided a DOE-RL update. Demolition work has started on K East Basin. Crews will demolish the superstructure, which includes removing water and hazardous material such as asbestos. After

that, Matt said they would work on the substructure. Work will continue through FY 2009 and the contractor is slightly ahead of schedule. Small amounts of spent nuclear fuel was found in K West Basin, so the contractor will do one last transfer out of the basin to the Canister Storage Building this summer.

Shipments out of the Plutonium Finishing Plant (PFP) to Savannah River are on going and will continue through September 2009. Crews are cleaning out glove boxes at PFP. Shipments of TRU waste continue to the Waste Isolation Pilot Plant (WIPP); Matt said 1,000 cubic meters have been treated this year. The shipment and treatment of 150 cubic meters of mixed low level waste and remote-handled waste will be a key activity this year.

Matt showed a video of 100 D and 100 DR field remediation. Crews successfully pulled down the first of three stacks at 100 N; Matt said the 100 N Area landscape is changing in 2008 and 2009. He showed another video of excavating the Environmental Remediation and Disposal Facility (ERDF) cells 7 and 8 ahead of schedule. Matt said those cells are key for cleanup and for also receiving TRU waste from the Central Plateau.

Matt discussed highlighted groundwater remediation efforts: Chromium pumping in 100 K has increased and additional facilities ready this fall will substantially help increase the pumping capabilities. Matt said crews are installing another pump and treat system in 100 D to speed up groundwater remediation. At the strontium plume in the 100 N Area, DOE has seen favorable results for preventing chromium from reaching the river for the in situ layer; apatite injections were made at the high water level. Matt said they will also be able to increase their carbon tetrachloride pumping ability at the plume in 100 West Area.

Mary Beth Burandt, DOE-ORP, added that they put together the system for groundwater models, including the vadose zone, and compared the model to five areas (four have plumes). Mary Beth said they are performing a calibration to ensure they have the right concentrations and the plume is the right shape. The model was completed successfully and DOE will apply those assumptions to the other 500 sites it is analyzing.

Ecology

Jane Hedges, Ecology, agreed that 100 N and D Areas are progressing well, particularly on chromium issues. She noted recent Ecology activities and updates:

- On May 21, the 9th Circuit Court of Appeals ruled that the state lost its appeal of Initiative 297 and the attorney general's office is looking at the decision to make a recommendation on next steps; they have 45 days to make a decision.
- Ecology is working to reissue the site-wide permit; Jane said to contact her or Madeleine Brown, Ecology, for questions or suggestions.
- State of the Site meetings will be held around the region in October.
- Ecology sent out a public involvement survey to its listserv on April 29. Jane encouraged Board members to complete the survey.
- Ecology and DOE-ORP appear to have reached an agreement in principle for the resolution of the WTP 2+2 melter permit modification, containing some permit conditions which DOE-ORP appealed last year.

EPA

Nick provided an update from EPA:

- Good progress was made on the 618 and 617 burial grounds; Nick said it is tough work with many unknowns.
- Confirmation sampling is almost finished at F Area, and many facilities and reactors are now gone.
- Good progress is being made at the BC reactor area. There is some chromium contamination 30 feet below ground and they are trying to figure out how to mitigate and excavate or treat in place. Nick said they will continue conversations with the Board regarding that.
- There are lots of borings, wells and investigations to reach a final decision with remedial investigation and feasibility study (RIFS) work, and many decisions are scheduled through 2011. Nick said they are working to get the RIFS work for the River Corridor.
- EPA may see changes in Region 10 Superfund leadership.

- Nick congratulated Dennis Faulk, EPA, on his work for the successful Salmon Days event at Columbia. More than 500 children attended.
- The EPA website was updated and Nick encouraged the Board to let them know what they think.
- EPA and DOE are discussing the Hanford cleanup budget; Nick said EPA-HQ is supporting of the Office of Management and Budget and understands DOE's cleanup responsibilities across the complex.
- Nick thought it was great to see new cells under construction at the Environmental Restoration and Disposal Facility (ERDF). He said since the compaction problem a year ago, compaction methods have radically improved. The contractor is using two compactors and a GPS system to ensure accurate compaction. Nick thought that will save time and money in the long run and build greater confidence. He said those lessons learned are being applied throughout the DOE complex.

Discussion

Keith asked if DOE has received any employee suggestions about preventing an incident like the S-102 spill in the future. Erik said DOE has had heavy worker involvement.

Floyd thought upgrading pump and treat operations is not a good solution, and asked if there have been any source finds. Matt said they have found sources along the river. D Area chromium plume source detection has been difficult, and DOE is drilling wells to try to find the source. He said pump and treat systems are necessary to clean up groundwater that is already contaminated. In the Central Plateau, Matt said there is some funding to find other sources of carbon tetrachloride, and DOE is working on identification and remediation. Floyd said there is evidence of carbon tetrachloride contaminated water in T Farms, and said DOE needs to find the source in the aquifer. Matt said that is what they are doing. Nick said a Record of Decision is coming out for that treatment remedy, and they are continuing to look for DNAPL. Floyd thought they should look to the south.

Ken Gasper asked about plans for an S-102 lessons learned document. Erik said DOE is developing such a document to share around the complex.

Rob asked about staffing and onsite hiring. Erik said DOE-ORP is hiring a lot of people, and combined with DOE-RL have about 100 job announcements. DOE-ORP still has around 105 to 100 employees. Erik noted that many people are retiring and DOE is working on succession planning and retaining institutional knowledge and history. Matt said DOE-RL has an intern program to bring in young engineers and scientists.

Nick said EPA is not getting any more staff resources, even though it could use them. He said they are working with the Seattle labs and contracting with USGS when possible. He said their facility budget is tight but they have good staff with training in place.

Jane said Ecology has about 68 full time employees, with authorization for 72 positions. She said it is their highest number ever and does not expect to get any more full time employees at this time. Ecology is leveraging contracts and bringing people in on a contract basis for six months to a year. Jane said they are pushing resources toward the site-wide permit effort and will hopefully be able to reorganize when that permit is complete.

Shelley asked if there was any news to make Hanford the pilot for a technology forum as they had heard at the EM SSAB meeting. Matt said DOE-HQ is working on a response. He said they want to use existing or new venues to talk about new technology and technology development. Matt said DOE is open to the idea and the Board will see that in the response.

Committee Reports

HSEP

Keith said the committee has no plans to draft advice. Topics of interest include environmental monitoring and sampling.

TWC

Ken Gasper said the committee drafted a work plan that was slightly revised in response to the draft priorities memo. The committee is addressing the following:

- System Plan Revision 3: Ken said it is a significant report and addresses concerns the Board identified in Advice #192. He said the committee will continue to be updated on WTP and the impacts of delays.
- TC&WM EIS: The committee is looking forward to reviewing the draft TC&WM EIS. It has been involved in the groundwater monitoring aspect of the EIS.
- Draft advice the configuration control of baseline assumptions: The draft advice was sent back to the committee to ensure it addresses only policy and to also consider the State of Oregon's input as an alternative to make it more understandable to the public. Ken said the committee has not yet reached consensus on the draft advice.
- Fractional crystallization: The Savannah River pilot plant is moving forward with testing readiness.
- S-102 incident: The committee has assigned issue managers to the S-102 spill event to evaluate lessons learned. HSEP and RAP will participate, too, given the broad implications.

The committee toured WTP's pre-treatment engineering platform. Ken said they are also discussing how to communicate its values to the agencies as the scale of cleanup increases.

RAP

Maynard said RAP has a big work load in the coming year. He wondered if the Technology Working Group issue fits within the Committee of the Whole work and if the Board's budget would support that work.

RAP wants a presentation at the August committee meeting about the PUREX tunnel, as well as a presentation on sludge alternatives analysis. He was glad the Board was addressing the development of the FS and proposed plan for 200-PW-1, 3 and 6 operable units. He said the Board's involvement is important, especially since it is the first time DOE is addressing such long-lived elements.

Bob Suyama is managing long term stewardship and institutional control issues for RAP.

In August, the committee will review DOE's response to the 200-PW-1, 3 and 6 advice, as well as have an update on the treatability test and risk-based analysis of river corridor work.

BCC

Harold said the president's budget request is still in Congress, and the committee has not recently met to discuss specific budget items.

Pam asked how the committee should get a baseline workshop scheduled. Erik said he and Kim Ballinger, DOE-RL, will provide date options soon and it scheduled. Susan Leckband said DOE will cover costs because it is a Committee of the Whole event.

PIC

Susan Leckband said the agencies requested public involvement help from PIC. Susan thought the committee and Board should consider pulling public involvement elements into the technical committees, with issues such as the TC&WM EIS.

Gerry said Ken Niles put together a proposal for a public involvement workshop and nothing came of it. He thought there was frustration around setting goals for public involvement, and did not think doing public involvement in the technical committees was the solution. Gerry said there should be goals set for public involvement, and the agencies should be clear about their assumptions and goals for public involvement. Susan clarified she meant that PIC work in concert with the technical committees.

Dennis said the agencies released a strategic plan for public involvement a few months ago, and they want PIC to work on it. The plutonium workshop is an example of good public involvement. He said the agencies challenged the Board to do more innovative public involvement activities. Dennis thought it was a two-prong approach: helping the agencies with their specific strategic goals and also reaching out in the broader public realm.

Gerry said the Board cannot financially afford to greatly increase its public outreach effort.

Susan Leckband noted the workshop Ken Niles proposed was delayed because there were many other workshops on issues that needed immediate attention. Ken said he went along with that because it did not have the support it needed.

Public Comment

Floyd Hodges, Board alternate

Floyd said the Board should make sure the charter changes are positive and not a Trojan horse. He thought it marked the end of the Board as an independent board. He did not think the Board should make a decision before DOE explains how the Board's charter change proposal was inadequate.

Gai Oglesbee, National Independent Advocate, National Nuclear Victims for Justice

Gai provided a written statement. The national advocates and individual contributors are planning a nationwide rally for June 25, 2008, at as many nuclear sites across the nation as possible. The purpose is to bring attention to the failed, discriminatory and abusive Energy Employees Occupational Illness Program (EEOICP) process. No, Congress did not keep their promises made to the Cold War veterans when they created and overwhelmingly approved the Act.

I want to announce that the Hanford advocates are formulating a rally that is planned to take place on June 25, 2008, across from the Federal Building in the public park.

Today, I will apprise you of my personal reasons for agreeing to participate in the rally for your information. I have been an EEOICP Claimant since August 2001. My basal cell carcinoma cancer and unspecified allergic reactions have been accepted as qualified by the U.S. Department of Labor (USDOL). Ironically, my claimant daughter Carol's melanoma cancer has not been accepted. The processing of her EEOICP claims stopped after the initial dose reconstruction. It seems that the USDOL Secretary Elaine Chao and her subordinates declared in their case records to December 17, 2007, that Carol's Part B and Part E claims did not meet with their criteria. Suddenly, after I cited the concerns, within a two week span of time, to June 3, 2008, I received five letter and email contacts from the USDOL agents. I also received a letter from USHHS Secretary Mike Leavitt that announced that the FOIA records were being approved and would be distributed as soon as possible. It seems that the government agents are attempting to remedy their abuse of discretion errors for the purpose of covering up their acts of wrongdoing.

I am my daughter's Authorized Representative (AR). The USDOL agents have great difficulty keeping track of and recognizing the AR's permission papers and other legally binding papers. To date, Carol's small packet of claim's files measure about 3-inches high. The claim's files now include a one-page medical paper that delineates Carol's oncologists' diagnosis, prognosis and desired therapy regarding the metastasized cancer. I am still having some difficulty with representing Carol's interests as her AR. The agents always claim they are too "lazy-busy" to locate an AR's permission papers claiming that the privacy/security rules give them the right to deny the AR's access to the claim's data. Too many of USDOL Secretary Chao's "claim's examiners" eagerly announce that they are attorneys and that their designations as attorneys are final. However, the agents don't seem to be oriented to understand why papers that are signed by the claimant are binding. I am not aware of any "claim's examiner" or FAB officer who is oriented to understand that they do not represent the USDOL's legal interests.

My claimant daughter Carol's EEOICP Part B and Part D aka Part E claims were accepted by the USDOL as of August 10, 2001. The agents knew that Carol was diagnosed with melanoma cancer which is clearly reflected on the USDOL's papers. The history of Carol's medical condition(s) are compared to my deceased Hanford B Plant manger Robert E. Higbee, Jr's melanoma cancer diagnosis that also metastasized to other parts of his body including his brain. He died on Thanksgiving Day in November 1991. About six years after my daughter Carol's initial cancer diagnosis, malignant masses are discovered and nodules have developed in her brain. Carol is suffering. The cancer disease threatens to terminate her life. Many claimant's skin cancers have been accepted and compensated by the USDOL agents. After the U.S. Health and Human Services (USHHS) – National Institute of Occupational Safety and Health (NIOSH) issued Carol's initial dose reconstruction, the processing of her claims stopped. Carol's dose reconstruction estimate is at about 46 percent probability of causation when 50 percent or greater is required to qualify

according to the USHHS - NIOSH "interim rules." Yet, the USDOL Secretary writes to inform me that Carol's claims do not meet with her criteria.

However, recently Congress representative U.S. Senator Patty Murray received a inquiry response that the USDOL agents had "reopened" Carol's claim about six months ago on December 17, 2007. The agents failed to notify Carol or I. The inquiry response announced that the USDOL agents gave themselves permissions to process Carol's claims for another 45 days. That time frame has elapsed long ago. The agents admit that they issued a contrived "recommended decision" in September 2005 and a contrived Final Adjudication Branch (FAB) final decision by November 2005. I reissued another F.O.I.A. request for the purpose of discovering those particular records. In each instance, the claimant has options that can be invoked such as objections and reconsideration notices. The claimant has 60 days to file a lawsuit in U.S. District Court under Title 42 U.S.Code Part 7385-s-6(a) Judicial jurisdiction after the reconsideration notice is denied by the FAB agent. Or the claimants can request an Administrative hearing under the same Title 42 U.S.Code Part 7385-s-6(b) Administrative. The problem exists because neither Carol nor I received the contrived records. Then, it appears falsified records and fraud is involved. To date, I have not, yet, received a copy of the two contrived records or any of Carol's claims records which is my daughter's right under the EEOICP stipulations to discover. Sometime after December 17, 2007, the USDOL agents had given themselves permission to perform another dose reconstruction and gave themselves permission to issue a new "recommended decision."

The USDOL agents designate that *Claims* are meant to identify the survivor's program statistics; and *Cases* are meant to identify the nuclear facility worker's program statistics. You will note that the USHHS - NIOSH statistics are questionable because of the numbers that are reflected to June 4, 2008. When compared with the USDOL's statistics, the inaccuracies seem obvious. I have been tracking the agencies' program statistics for a very long time. I can tell you that I believe the statistics are not accurate and seem to be manipulated depending on who the USDOL agents are trying to impress.

By year 2000, the US DOE estimated that over 600,000 nuclear facility workers were eligible to apply and receive the EEOICPA entitlements and medical benefits. The USDOL agents choose to admit that about 75 percent of the claims are denied. However, the USDOL agents are allowed to testify that they are excellent performers before the Congress officials during subject matter hearings. The USDOL witnesses want Congress to believe that they have complied with the EEOICP stipulations because they have spent over \$3,830,349,831 dollars to compensate some 20,407 claimants. The expenditure includes payment for the cost for the claimant's medical treatment fees. The administrative costs are exorbitant.

Denied Hanford worker statistics are one of the worst of all reflections.

The U.S. Department of Labor's EEOICP statistics as of June 4, 2008

Hanford Cases

- Total Part B and Part E claims: 8,589
 - Part B Cases: 4,247
 - Compensation Paid: 888
 - Denied: 1,841
 - Part E Cases: 4,332
 - Compensation Paid: 627
 - Denied: 1,438

NIOSH statistics: Hanford

- Initial Referrals: 475
- Reworks: 610
- Cases compensated: 1,403
- Cases denied: 2,643

National Wide Statistics: June 4, 2008

- Cases: 114,412
 - Part B
 - Compensated: 20,407
 - Denied: 17,613
 - Part E
 - Compensated: 9,689

- Denied: 15,596

NIOSH Statistics

- Cases referred: 27,230
- Initial Referrals: 4,302
- Reworks: 3,465

Nation Wide NIOSH Statistics:

- Accepted claims: 5,452
- Compensated: 7,607
- Denied: 9,191

Gai Oglesbee, reading for an "undisclosed presenter"

Gai provided a written statement. The undisclosed presenter wants the HAB to know the following:

On the job injuries are processed through the Washington State Department of Labor (DOL)-referred to as Washington State's DOL Labor and Industries' (L&I) who should be the responsible governance who oversees the occupationally injured workers' cases. Case histories show the Department of Energy (DOE) is the employer of the attorney for the contractors. The U.S. DOL is the employer of the Washington State DOL's L&I. The Washington State DOL is supposed to oversee the rights of the Hanford claimant workers who have been occupationally injured on the job. The DOE contractors come under the Washington State DOL jurisdiction. The self-insured status should not change the jurisdiction status. The Washington State DOL's L&I jurisdiction should not be controlled by the U.S. DOL. Then, why is the U.S. DOL involved in the Washington State DOL's L&I business? Does this crossover problem-federal to state-create an unfair advantage for any worker who invokes legal action that involves the DOE and their contractor's improprieties that presents many burdensome problems for the injured worker to manage? The DOE's contractor attorneys refuse to release discovery; and, Washington State's DOL Administrative Judges allow the injustice. The DOE has an endless taxpayer funding supply that is allocated for the purpose of reimbursing their contractors' legal expenses. Attached is a copy of a Hanford injured worker's expert witness dose reconstruction chart entitled "*Temporal Comparison of Illness, Dose, and Potential Exposure.*" The evidence clearly identifies the worker's exposure history which was denied and was not accepted as evidence.

Board Business

EM SSAB Chairs are meeting this fall in Washington DC. Susan Leckband said there are other national meetings the Board should be involved in, and they are currently figuring out how to pay for it outside the Board's budget.

Penny asked if there was interest in a site tour, since the last one was cancelled due to lack of interest. Board members said they need greater advance notice and that the Wednesday before a Board meeting is a good day for a tour.

Rick was congratulated the people who worked to keep the emergency towers on Rattlesnake Mountain while maintaining awareness of the cultural sensitivity.

The Board will decide in September about having all FY 2009 meetings in the Tri-Cities to save money.

September meeting topics:

- Look Back/Look Forward perspectives from the Board and senior TPA agency managers
- System Plan Revision 3
- FY 2009 board meeting locations
- Hear from new contractors
-

Nuclear regulatory commission report on their work with ORP and we look forward to a presentation on the results

Keith – I hope we don't have to write any more health and safety advice after the advice we passed today. HSEP will have a meeting in October.

Maynard – we'll have a committee meeting in August.

Penny – June and July schedule.

Calls

Rap 6/17

TWC no call planned for June or July but will have an issue managers meeting on the system plan rev 3

PIC – Steve will let Penny know

BCC- none

HSEp – none

EIC – call placeholder 6/19, let you know.

Pam – remember the baseline workshop.

ADJOURN.

September Board meeting topics may include:

-

Other potential September Board meeting topics will be identified in upcoming committee meetings.

Committee calls and meeting dates:

-

Attendees

HAB MEMBERS AND ALTERNATES

Tom Carpenter, Member	Bob Parks, Member	Emmett Moore, Alternate
Rob Davis, Member	Maynard Plahuta, Member	Laura Mueller, Alternate
Norma Jean Germond, Member	Gerald Pollet, Member	Nancy Murray, Alternate
Harold Heacock, Member	Keith Smith, Member	Vince Panesko, Alternate
Becky Holland, Member	Bob Suyama, Member	Gary Petersen, Alternate
Rick Jansons, Member	Margery Swint, Member	Wade Riggsbee, Alternate
Julie Jones, Member	Gene Van Liew, Member	Dave Rowland, Alternate
Mike Keizer, Member		Dick Smith, Alternate
Susan Kreid, Member	Kristie Baptiste-Eke, Alternate	Charlie Weems, Alternate
Pam Larsen, Member	Al Boldt, Alternate	Steve White, Alternate
Susan Leckband, Member	Shelley Cimon, Alternate	
Richard Leitz, Member	Gerry Dagle, Alternate	Earl Fordham, Ex-Officio
Jeff Luke, Member	Ken Gasper, Alternate	Debra McBaugh, Ex-Officio
Todd Martin, Member	Floyd Hodges, Alternate	
Doug Mercer, Member	Steve Hudson, Alternate	
Armand Minthorn, Member	Mike Korenko, Alternate	
Ken Niles, Member	Wayne Lei, Alternate	
Bob Parazin, Member	Gwen Luper, Alternate	

AGENCY, CONTRACTOR, AND SUPPORT STAFF

Kim Ballinger, DOE-RL	Sharon Braswell, Ecology	Mike Priddy, DOH
Matt McCormick, DOE-_____	Madeleine Brown, Ecology	Bill Dixon, _____
	Dru Butler, Ecology	
Mary Beth Burandt, DOE-ORP	Suzanne Dahl, Ecology	Susan Hayman, EnviroIssues
Lori Gamache, DOE-ORP	Jane Hedges, Ecology	Tammie Holm, EnviroIssues
Steve Wiegman, DOE-ORP	Jeff Lyon, Ecology	Hillary Johnson, EnviroIssues
	Jennifer Ollero, Ecology	Penny Mabie, EnviroIssues
Cameron Salony, DOE	Ron Skinnarland, Ecology	
Jamie Zeisloft, DOE	Mike Wilson, Ecology	Peter Bengtson, WCH
	Craig Cameron, EPA	Janice Williams, Fluor Hanford
	Nick Ceto, EPA	Barb Wise, Fluor Hanford
	Dennis Faulk, EPA	
	Rod Lobos, EPA	

MEMBERS OF THE PUBLIC

Beverly Penny, CTUIR	Annette Cary, Tri-City Herald	
	Julie Atwood	
Sam Dechter	Gai Oglesbee, National Nuclear Victims for Justice	