

**Notes from the Joint Meeting of the
Environmental Council of the States (ECOS)
Federal Facilities Forum (FFF) and
ECOS-U.S. Department of Defense (DOD) Sustainability Work Group
at the 2010 ECOS Spring Meeting
March 23, 2010
Cavallo Point Lodge Sausalito, California
Compiled by Matthew C. Jones (ECOS)**

Co-Chair Bob King (South Carolina) called the meeting to order at approximately 7:30am Pacific time and welcomed attendees and guest speakers to the session. Roger Petrie (Tennessee) also offered his greetings and welcomed participants to the meeting. Roger noted that Co-Chair Paul Sloan sends his regrets that he could not make the meeting due to a scheduling conflict.

Mr. King proceeded to introduce the first speaker to the group, Jennifer Roberts of Alaska.

Ms. Roberts began her remarks by noting that the Munitions Response Forum recently held two meetings. The group is committed to encouraging a collaborative state-federal decision-making process regarding cleanup of munitions. The group is exploring where States fit in the decision-making process. State members of the forum plan to develop consensus recommendations outlining those opportunities.

Regarding interim risk management, Ms. Roberts noted that such activity can be hampered by a lack of funding for efforts in the post-preliminary assessment phase. The forum is working to develop a paper on interim risk management and hopes to present this to members of the ECOS-DOD Sustainability Work Group in the future in order to begin securing both State and DOD endorsement of its findings.

Ms. Roberts is also spearheading an effort to draft a letter of support for the Munitions Response Forum on behalf of ECOS.

The next meeting of the Munitions Response Forum will occur in Boise, Idaho.

Next, Ms. Roberts distributed a handout to the audience on the subject of Quality Assurance Project Plans (QAPPs) (see handout posted on the ECOS website). She noted that Alaska used QAPPs in its dispute resolution with the Navy. Ms. Roberts pointed out that there is an effort underway to develop a uniform federal policy for QAPPs and to secure state and federal agency (and association) support for the policy. Ms. Roberts noted one benefit of their using QAPPs was that it helped Alaska avoid a formal

dispute process with the Navy. She noted that QAPPs can help facilitate early involvement and coordination with the parties. The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) recently released a letter supporting the idea of having a uniform federal policy on QAPPs. Ms. Roberts suggested that officials from DOD and EPA as well as the state commissioners also consider endorsing this concept. This concluded Ms. Robert's presentation.

Mr. King thanked Ms. Roberts for her presentation and noted that he was supportive of developing and endorsing a uniform federal policy for QAPPs. He noted that such documents are used in the sampling process for states and that he and his staff are familiar and comfortable working with QAPPs.

Mr. King introduced the next speaker, Assistant Administrator for EPA's Office of Solid Waste and Emergency Response (OSWER), Mathy Stanislaus.

Mr. Stanislaus thanked ECOS for inviting him to speak and noted that he viewed working with the States as critical for the success of EPA. Mr. Stanislaus asked state officials in the audience: "What issues do you have for us to collaborate on?" and said that he has an open door policy in working with the States to entertain ideas for collaboration. Mr. Stanislaus mentioned that OSWER recently reached out to local communities. He noted that EPA continues to work with its Local Government Advisory Committee (LGAC) to scope issues. OSWER has reached out to ECOS and ASTSWMO as well. Mr. Stanislaus said that he is seeking to continuously improve how EPA engages and communicates with local communities. He said he continuously explores "How can we better involve local communities for effective participation? How can we better communicate to the public what the consequences of various timelines for cleanups are? How can we make sure locals are better informed? How can we resolve local confusion about what EPA's role in cleanups is?"

Mr. Stanislaus next talked about EPA's Integrated Cleanup Initiative. He said that EPA is taking a hard look at its programs and seeks to increase transparency and quicken the pace of cleanups. Through the 2011 budget, OSWER is seeking to undertake significant remediation actions and achieve numerous project completions. In the future, EPA will report out on its progress. In the meantime, OSWER seeks to engage with States on how to better manage cleanups at federal facilities, and "how to better get locals to inform us regarding what the potential re-use of cleaned-up lands should be?"

Mr. Stanislaus paused to see if the audience had any questions.

Mr. King asked: How can we get more resources for this? Reengagement of communities is certainly important, but in South Carolina, this can add more time to the cleanup process, and require more resources. How do you see this playing out in certain areas?

Mr. Stanislaus replied that OSWER plans to lay out a draft implementation plan. This plan will explain how technical assistance will be provided. He said that his effort to achieve broader stakeholder outreach is not intended to delay the cleanup decision-making process. He is not looking to establish a new consensus-building process involving all stakeholders.

John Reeder, Director of EPA's Federal Facilities Restoration and Reuse Office, added that EPA plans to develop a template for how its increased outreach will be pursued, and how it will play out differently within differing regions and audiences.

Mr. Stanislaus added that "we've not been effective with fish consumption advisories. We seek to explore how we can better communicate fish consumption advisories and warn about the dangers of eating contaminated fish."

Next, Mr. King invited John Reeder to speak to the group.

Mr. Reeder began by saying he is pleased that ECOS has maintained its Federal Facilities Forum and that he values the opportunity it provides for him to periodically interact with the state environmental agency commissioners. He thanked ECOS for inviting EPA to speak at the session.

Mr. Reeder began his remarks by talking about the site assessment process. He noted that CERCLA requires EPA to develop, maintain, and update the Cleanup Docket. Mr. Reeder described the Cleanup Docket as the hopper that catches all of the facilities that need to be addressed and serves as a master list when sites are considered for addition to the National Priorities List. EPA will be reminding federal agencies about the docket process. Another next step is that EPA will be working with the States to collect more information about potential cleanup sites. There are approximately 400 sites for which the docket information is not complete or absent. EPA will be looking to the States to help them identify which sites might still need to be cleaned up.

Mr. Reeder noted that EPA has been working with Maureen Sullivan with the Office of the Secretary of Defense to better harmonize and coordinate their cleanup efforts. They are identifying where the two agencies might be using differing data systems or language/ terms and how they can better synchronize their communications and cooperative efforts.

Mr. Reeder said that he views the Munitions Response Forum as a significant and important body. He said that a lot of early CERCLA work is building for munitions cleanups. We are years behind on munitions cleanups compared to other contaminant cleanup achievements. EPA is aiming to put out preliminary site assessments for different sites in order to identify priorities for cleanup. EPA wants to make sure that, if a decision is being contemplated for no cleanup action to occur at a site that the host state concurs with that assessment. EPA would like to make sure all parties are in agreement.

Regarding a uniform federal policy for QAPPS, Mr. Reeder noted that EPA is supportive of the idea. He noted that ASTSWMO's recent letter mentions the idea of expanding use of the tool to other programs. He also said that he agrees that ideas for the future use of remediated sites should be solicited from local communities.

Next, Mr. Reeder spoke more about the LGAC. The LGAC is a FACA committee that advises the EPA Administrator. It has been recommended that the LGAC help EPA to develop a toolkit for communities that helps explain the cleanup process at federal facilities. EPA is considering whether it will continue to convene the LGAC and how often.

Ms. Roberts asked: Is the LGAC the same as the other federal facilities advisory committee that has been rumored might be developed to work on military cleanup issues and other federal facilities cleanup issues?

Mr. Reeder responded that, no, the two are separate groups. The LGAC would focus on developing the local government toolkit. Another FACA may be established to address broader federal facilities issues. Another such FACA existed in the 1990s. Mr. Stanislaus has asked EPA staff to explore reorganizing such a group. EPA is still deciding what to do.

From the audience, Tad Davis (Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health) introduced himself and noted that the Army is committed to working with local communities, state officials, and advisory boards to discuss cleanup issues at Army bases. Mr. Davis noted that a big challenge with formerly used defense sites (FUDS) is that the issue is not just cleanup, it's also economic development. Therefore, there are lots of timing considerations when trying to synchronize a site's cleanup as well as planning for its reuse to spur economic development and opportunity within the host community. Mr. Davis said that he was attending this meeting in order to reach out to state officials to discuss any site specific issues they may have. Mr. Davis mentioned that he would be present during the entire meeting's events and said that he would be happy to meet with any state environmental agency directors that afternoon if they wish. Or state officials could contact Mr. Davis after the meeting by telephone.

Next, Ken Zarker (Washington) asked Mr. Reeder: Regarding the effort to update the docket system, what additional workload did he estimate would be involved? How will EPA implement an update of the docket system?

Mr. Reeder responded that the first step will involve getting the word out to federal agencies. Mr. Reeder didn't envision that a huge amount of resources would be involved for the initial information collection phase. He noted that, though there are approximately 400 sites with scant profiles, not all of them will have issues. For example, if a site has not been reviewed for 4 or 5 years, EPA would consider that an issue. But EPA does not anticipate that will be a problem with many sites.

This concluded Mr. Reeder's presentation. At this time, Mr. Stanislaus introduced Lisa Feldt (Deputy Assistant Administrator for OSWER) and Matt Bogoshian (Deputy Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance) to the audience. He noted that both Mr. Bogoshian and Ms. Feldt would be attending the entire meeting's events and were available to talk with state commissioners at any time during the meeting or afterwards via telephone.

Mr. King thanked Mr. Reeder and Mr. Stanislaus for their presentations and next invited Maureen Sullivan (Director for Environmental Management with the Office of the Deputy Under Secretary of Defense for Installations and the Environment) to give her speech.

Ms. Sullivan thanked ECOS for inviting DOD to speak at the meeting and noted that John Conger (Assistant Deputy Under Secretary of Defense for Installations and the Environment) sends his regrets that he could not attend due to a conflict with budget hearings for the agency.

Ms. Sullivan's presentation was accompanied with a slideshow covering many different topics (a copy of the slideshow is posted on the ECOS website).

Ms. Sullivan mentioned that DOD is developing a new Green Remediation Policy to improve efficiencies of the agency's efforts. The policy is not meant to apply to every cleanup site but it will be applicable to many of the sites. The rumors that DOD will require in-situ operations for every site cleanup are simply not true. The policy will be site specific.

Next, Ms. Sullivan distributed a handout to the audience concerning the FUDS Forum (handout is posted on the ECOS website). In addition to the handout, Ms. Sullivan mentioned that DOD has posted information about the FUDS Forum on their website:

<https://www.denix.osd.mil/portal/page/portal/FUDS/Overview/>

Ms. Sullivan noted that DOD reconstituted the FUDS Forum in February. The parties have agreed to operate via a tiered process: Local groups will meet; then regional groups will meet; then national meetings will be held. The parties have agreed that it would not have been appropriate to have issues discussed nationally before they were discussed locally.

Ms. Sullivan acknowledged that the process of identifying potential uses of sites to be cleaned up can sometimes add challenges to the effort for engaging with potentially responsible parties (PRPs). Ms. Sullivan said that inventory management is also an issue.

Ms. Roberts said that the FUDS Forum tiered meeting system makes for a good process. She said that it's good to start at the local level so that issues can "bubble up" to the national level. She said that engaging with PRPs can be challenging for states. Ms. Roberts noted that it is the forum's goal to hold regional meetings in October.

Regarding Defense-State Memorandum of Agreement (DSMOA) issues, Ms. Sullivan said that DOD recently changed the reimbursement eligibility policy. Now, DOD is working on a policy for dispute resolution. DOD has shared a draft dispute resolution policy with members of the DSMOA Steering Committee. This document is just a draft. A final decision has not been rendered.

Ms. Roberts noted that eight (8) states are participants on the DSMOA Steering Committee. She noted that the DSMOA process no longer requires semi-annual reporting; reporting can now be done once a year. Ms. Roberts said that DOD has done a lot to address DSMOA issues over the past year. She is hopeful that we can tackle the remaining issues. Ms. Sullivan said that DOD is committed to that.

Ms. Sullivan also said that, regarding the Munitions Response Forum, DOD is committed to that too.

Regarding the federal facility agreement (FFA) for Andrews Air Force Base, Ms. Sullivan said that it is in the final stages for signing. She mentioned that three (3) other DOD sites were proving more complicated and their FFAs are taking longer to finalize.

Ms. Sullivan mentioned that the U.S. House of Representatives held an Appropriations hearing last week and DOD "got beat up" on their lack of progress cleaning up munitions response sites. In DOD's budget

request, they are aiming to address medium risk sites by 2011. Government Accountability Office (GAO) audits are ongoing. GAO released a report on FUDS in October 2009.

Ms. Sullivan noted that DOD is still working to update its Defense Environmental Restoration Program (DERP) Manual. A draft update has been shared with ASTSWMO and EPA for feedback. DOD is looking to finalize the document in the future.

Ms. Sullivan said that DOD is committed to a partnership with the States. She also said that she is trying to spread the word to encourage local communities to apply for technical assistance grants. Ms. Sullivan made a number of other points referring to detailed information in her slideshow. This concluded Ms. Sullivan's presentation.

Mr. King thanked Ms. Sullivan for her speech and asked if there were any questions or comments from the audience.

Mr. Reeder said that it was his understanding that EPA's Inspector General planned to issue a report soon that will be critical of EPA and other federal agencies citing that certain institutional controls have not been followed in the recent past.

Next, Mr. Petrie introduced Bill Levitan, Compliance Director for the Department of Energy (DOE) Office of Environmental Management (EM).

Mr. Levitan began his remarks by saying that he appreciates ECOS and the opportunity for collaboration and information-sharing it provides his agency. He thanked ECOS for allowing him to speak on behalf of DOE. A slideshow accompanied Mr. Levitan's presentation (see slideshow posted on the ECOS website).

Mr. Levitan noted that within the nuclear weapons complex, cleanups involve not only hazardous waste, but also radiological waste. Year to year, EM typically garners a \$ 6 Billion annual budget to perform cleanup of sites throughout the complex. EM also received \$ 6 Billion in funds from the American Recovery and Reinvestment Act (ARRA) to put towards accelerating its cleanup efforts.

Mr. Levitan noted that radioactive tank waste is a priority for EM. Such waste is highly radioactive and must be handled remotely for it to be converted into a stable glass form for disposition.

In the past, spent nuclear materials were traditionally stored in pools, but these can leak plutonium and uranium. If not stabilized, this waste can be dangerous. It must eventually be treated, stored and then moved to a geological repository.

As the footprint of DOE sites shrink after successful cleanups, this results in savings on long-term stewardship and mortgage costs that can be parlayed into accelerating other site cleanups.

DOE has been able to use ARRA money to move immediately and get to work making additional progress cleaning up sites.

Mr. Levitan showed a slide on the past 20 years of progress DOE has made cleaning up sites. The ultimate goal of the agency is to geologically dispose of all dangerous waste.

Recently, under the direction of President Obama, DOE began to discontinue its pursuit of establishing a permanent geological repository at Yucca Mountain, Nevada. Nevertheless, DOE plans to continue to prepare dangerous materials for disposal, according to established waste acceptance criteria, for when a repository site has been identified.

A key goal is that DOE plans to use ARRA funds to reduce the complex footprint by 90% by 2015.

By the end of April, DOE plans to post information on its website about its compliance record for achieving cleanup milestones. Over the past several weeks, DOE was in touch with ECOS representatives on the Combined Intergovernmental Working Group to be sure the release of this information would be acceptable to them.

Mr. Levitan noted that EM has been developing a policy on Natural Resource Damage Assessment.

Mr. Levitan asked if the audience had any questions or comments.

Tom Schneider of Ohio asked: Is all the vitrified waste dissolved waste that is destined to be moved to a geological repository?

Mr. Levitan replied that that may not be true in some cases.

This concluded Mr. Levitan's presentation.

Mr. King and Mr. Petrie thanked the guest speakers one last time for their speeches and adjourned the session at approximately 9:00am Pacific.