

Association of State and Territorial
ASTSWMO
Solid Waste Management Officials

**2005 ASTSWMO FEDERAL FACILITIES
MANAGERS SYMPOSIUM PROCEEDINGS**
Theme:
“Federal Facilities Today, A Work In Progress”

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**Sir Francis Drake Hotel
450 Powell Street
San Francisco, CA 94102
Ph: (415) 392-7755
Fax: (415) 391-8719
www.sirfrancisdrake.com**

ASTSWMO’s mission is to enhance and promote effective State and Territorial waste management programs and affect national waste management policies.

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WELCOME AND OPENING REMARKS

Moderated by: Jim Ussery, GA

This session marked the beginning of the third ASTSWMO Federal Facilities Managers Symposium. Welcomes were heard from representatives from Environmental Protection Agency (EPA) Region 9, California's Department of Toxic Substances Control (DTSC), the Department of Defense (DoD), and ASTSWMO's Federal Facilities Subcommittee Chair.

State of California

Dorothy Rice, Deputy Director of DTSC's Site Mitigation and Brownfields Reuse Program, began this session by welcoming everyone to San Francisco. She stressed the importance of using the Symposium to share information and lessons learned. Roughly thirty percent of previous base closures have been in California, with over 100,000 lost jobs and \$10 billion in lost revenue. As a result, there is a high priority to get property transferred back to the community to help recoup these losses. One of the lessons learned has been the importance of a committed team. Dorothy concluded her presentation by introducing staff from DTSC.

Environmental Protection Agency

Kathleen Johnson, Chief of the Federal Facilities and Site Cleanup Branch, EPA Region 9, began her presentation with several suggestions on what to see in San Francisco. She remarked on the theme of the Symposium and how relationships between DoD and the states were anything but "chummy" in the beginning of the program. However, we have moved forward and made progress, especially in BRAC. She discussed several issues on the horizon that will need to be worked out to continue a successful program: funding, emerging contaminants, and the disabandonment of the collaborative process (BCT) by DoD.

Department of Defense

Alex Beehler, Assistant Deputy Under Secretary of Defense, pointed out DoD staff in the audience and mentioned that there were several issues that DoD will address in later panels. He explained how the military is in transition in going beyond compliance. They are concerned about addressing the same issues as everyone else. He wrapped up his presentation by discussing new and improved technology and its impact on the military.

ASTSWMO

Clarence Smith's (IL), ASTSWMO's Federal Facilities Subcommittee Chair, opening remarks were on the behalf of ASTSWMO's President, Steve Hammond, who could not attend the Symposium. Steve wanted to stress that members of ASTSWMO were ready to help their counterparts. He believes in working together to make the country and world a better place.

Clarence then went on to honor Jim Ussery, Georgia, who is stepping down as Chair of ASTSWMO's Policy and Technology Focus Group. Jim has been an invaluable member of the Focus Group and will be greatly missed.

ECOS-DOD SUSTAINABILITY WORKGROUP

Moderated by: Clarence Smith, IL

ECOS Presentation: Jon Sandoval, ID

Jon Sandoval (ID) the State Co-Chair of the ECOS-DOD Sustainability Workgroup, indicated that States have long been concerned about finding better ways to coordinate with DoD. ECOS acted to bring several agencies and organizations together to address several problems of mutual interest. A letter was signed with the Department of Energy (DOE) and DoD to work together on three specific areas: Land-Use Controls, Emerging Contaminants, and Encroachment. This Workgroup has been looking at the role of States and DoD.

The group has developed a product that compiled case studies on compatibility and use. This Task Force is urging the adoption of the State of Virginia's Environmental Management System (EMS). This EMS can be duplicated in other States. The Sustainability Workgroup will monitor developments in this area and make this information available.

On Emerging Contaminants, a task force has been formed to discuss issues and challenges and to identify uniform procedures to address new contaminants.

The Land Use Control Task Force is looking at land use in areas surrounding military installations for risks. They plan to bring all parties to the table and to develop the following products:

- a) Best practices for land use controls.
- b) State-compatible database for tracking land use controls with incentives for developing the system.
- c) Draft resolution on Environmental Covenants based on the Uniform Environmental Covenants Act.

All of the information developed by the Workgroup will be available on the ECOS website at www.ecos.org.

DOD Presentation: Alex Beehler, OSD

Alex Beehler, DOD Co-Chair of the ECOS-DOD Sustainability Workgroup, stated that DoD has many unique properties to manage. There are 18 endangered species on Camp Pendleton and it is the only green space between Los Angeles and San Diego due to massive development. The only way to manage this encroachment is at the State and local level.

In March 2005, DoD signed a directive to acknowledge that the installation goes well beyond the fence line. BRAC will cause more focus on all installations, more training on fewer bases and more development.

Disagreements can be resolved if DoD and the States work together. The ECOS Sustainability Workgroup is a good template for resolving conflicts.

BASE REALIGNMENT AND CLOSURE: WHAT CAN WE EXPECT FROM BRAC 2005?

Moderated by: Jeff Edson, CO

As States, EPA, DOD and Communities anticipate the next round of BRAC, everyone agrees there is much to be learned from the past four BRAC rounds. Since 10 years has passed since the last round of BRAC, speakers will focus on lessons learned and what everyone needs to know about BRAC 2005.

Mr. Edson opened the session by noting challenges likely to be faced as a result of the upcoming BRAC round of 2005. For clarification purposes, Mr. Edson noted DoD's recent terminology change, from environmental baseline survey to environmental condition of properties and underscored the need to ensure identification of lead regulatory agency as well as defining stakeholders' role and responsibility early in the BRAC process. Mr. Edson discussed DSMOA reimbursement provisions for BRAC sites as well as the DSMOA UXO "comeback" criteria.

BRAC 2005 - What will it mean to the State of Connecticut? Mark Lewis, CT

Mr. Marc Lewis, CT kicked off the first of three presentations. His presentation was entitled BRAC 2005 – What it will mean to the State of Connecticut? Mr. Lewis showcased the New London Navy facility in Groton, MA and noted lessons learned from previous BRAC rounds in Connecticut. The discussion centered on the issue of estimating the cost associated with conducting an audit of the facility and ensuring that the property is transacted in accordance with applicable environmental regulations. The work conducted by the CT DEP also included efforts of CT Department of Economic Development as this agency provided the job loss statistics, which translated to lost dollars in the economy. In arriving a cost to redevelop the site as envisioned by the BRAC round, approximately twenty (20) CT DEP staff worked for over 1 month.

The analysis centered on the site's current land use (waterfront/piers and industrial) and resources need to ensure sustainable foreseeable future redevelopment (industrial/commercial, outdoor recreation). Because the CT DEP's cost estimate to address all waste streams exceed the estimate projected by the Department of the Navy, said component's initial concerns centered around the likely public perception and that the Navy had not adequately identified all waste streams warranting remediation or pollution prevention/management (e.g., offsite shipping of hazardous materials) prior to the BRAC transfer. CT DEP's estimate include need to perform a radiological assessment, address RCRA waste, and PCB and pesticide remediation stemming from

storage in building. The cost estimated by CT DEP was approximately \$28-35M. The discrepancy between the cost estimated by the CT DEP and the Department of the Navy hinged on the fact that CT calculated both closure cost and remediation cost. The Navy noted that remediation costs did not warrant inclusion in the overall cost estimate because they were addressing the environmental contamination in a parallel timeline.

CT DEP noted legal challenges associated with the BRAC Round in CT, including nexus between the FFA and the ongoing cleanup prior to the transfer and specific land use deed restrictions warranting implementation prior to transfer. CT DEP Commissioner was applauded for giving testimony and arguing for the “criteria 8” at the BRAC Commission hearing in Boston, Massachusetts.

BRAC Lessons Learned from the State of California: Rick Moss, CA

Mr. Rick Moss, CA presented the BRAC Lessons from the State of California in support of this plenary session. Lessons learned from the past included: need for early involvement by all parties, need for better site characterization to support future redevelopment (as supported by accurate maps and aerial photography, as well experienced contractors). Last BRAC rounds were challenged by underestimated cleanup costs, unrealistic schedules and unclear lead agency responsibilities.

Mr. Moss indicated important considerations that should be at the forefront of State regulators in order to successfully implement the tenets of the BRAC 2005, these include: (1) early transfer of base cleanup responsibilities (particularly those on NPL) via using new US EPA document, noting EPA as the lead agency with States as concurring agencies; (2) need for changing DoD existing policies as it pertains to dispute resolution (recent cases in California were discussed and highlighted and deemed noteworthy); (3) need for effective RCRA/CERCLA integration; (4) consider performing a market value of the property (as noted in the CT presentation, there is value in such exercise); (5) need for integration of redevelopment plans with current/future cleanup remedies; (6) noting that the polluter pays and for this reason, “credit” for past monetary contributions do not necessarily play into the overall dollar cap assigned to a site going through the BRAC round.

The Army’s Approach to BRAC: Rick Newsome, Army

Mr. Rick Newsome, Army provided the ASTSWMO membership with his presentation entitled The Army’s Approach to BRAC. Mr. Newsome noted lessons learned from BRAC rounds 1 through 4, including (1) need to carefully review federal-to-federal transfer requests that aim to ensure O&M budget support; (2) maximize property sales where markets are deemed “good”; (3) integrate redevelopment and cleanup; and (4) involve all parties early on. A flowchart noting the BRAC closure/disposal process and requirements was presented noting the change in terminology from Environmental Baseline Survey (EBS) to Environmental Condition of the Property (ECP).

In general, the programmatic environmental review looks to provide a gap analysis with the end result looking to use NEPA as a way to roll out the BRAC Installation Action Plan. Mr. Newsome noted that the ECP looks to incorporate ASTM standards and DOD specific requirements (i.e., munitions and energetic constituents of concern, lead based paint, asbestos containing materials) when conducting a comprehensive environmental characterization that is conducted by a contractor (with garrison staff providing advise) and presented in 2 Phase Reports. The BRAC Installation Action Plan is a living document, describing the installation's cleanup and redevelopment plan and seeks public involvement and reassessment on an annual basis.

This new approach aims to move transactions (i.e., realignment, closing and transfer) in 4 not 6 years. The DOD BRAC interface aims to provide overarching BRAC Policy (published in the CFR), develop DOD directive as well as Instruction. In summary, Mr. Newsome noted that from his perspective, the new round aims to be faster yet protective and with a free-market orientation with property sale revenues serving to help fund the 2005 BRAC round.

COMMUNITY INVOLVEMENT

Moderated by: Laura Bishard, CO

The Role Of The Restoration Advisory Board (RAB): Russell Clayshulte, Co-Chair, Buckley Air Force Base RAB

Russell Clayshulte has worked with communities for over 20 years in environmental resource management as a consultant and government employee. Mr. Clayshulte said he "changed hats" and gained a new perspective working with communities from an ordinary citizens point-of-view as a RAB Co-Chair. Clayshulte spoke about his experiences with lessons learned on how to make RABS or Community Advisory Groups (CAGs) work better.

It's very important for agencies and the RAB community to:

- 1) **Listen**: Is the community understanding what the Agency or Base is telling them and does the CAG work? Understanding acronyms and translating the science can be intimidating and difficult. Make sure the "science makes sense" to the CAG. Watch the CAG audience for non-verbal clues and reactions to information. Also, if citizen participation is small, look for creative ways to provide involvement with training or project teams for specific interests.
- 2) **Ask Questions**: People are sometimes afraid to ask questions that make agencies stop and think. Every question should be answered every time, and if an answer isn't immediately available, find out and get back to the RAB. There are no bad questions.
- 3) **Take Good Notes**: Write down every question asked at the RAB meeting and determine if the answer is adequate or needs more explanation. Take notes beyond what may only appear in the minutes for better detail.

- 4) Leadership: Base leadership is essential as turnover issues occur every few years. Base commanders used to view RABs as a necessary nuisance, provided limited information and met only as required with the knowledge they would be leaving cleanup problems for the next commander. Base leaders who accept an inherited legacy of contamination want to do a little bit more, and doing things right can move a RAB forward to progress.
- 4) Timing: By taking a “Do it now” approach, the information is communicated in an expeditious manner rather than waiting for the minutes or reports to be finalized. Issues can become forgotten and interest lost if not addressed at the time they are most important. Community involvement groups should show progress by setting dates to help establish benchmarks to measure accomplishments.
- 5) Collaboration: Participation should be from a “Bottom-Up” approach and away from the traditional “Top-Down” process to produce a favorable outcome. A CAG or RAB is critical for intra-agency communication and collaboration and should begin with the community. Look at the “Big Picture” regarding the cleanup of contamination and don’t get caught-up by tiny details or emotional outcries.

Community Partnerships: Lenny Siegel, Executive Director of the Center for Public Environmental Oversight (CPEO)

Lenny Siegel has been the Director of CPEO as well as the Director of the Pacific Studies Center since 1970, and is a leading expert on military facility contamination. Mr. Siegel spoke on the integral role of community partnerships.

Siegel said agencies; CAGs and RABs are communicating better and work easier together to solve problems. Agencies have learned sharing information in advance, issuing guidance before cleanup decisions are made, and recognizing the community is on the same side of the page enables a complex cleanup process to work. As people become more familiar with the cleanup process, learn the issues and learn the procedures, more constructive cleanup solutions are developed and conflicts minimized. Helping the least satisfied frame criticism to a format the military understands is not always easy as environmental cleanups take years and can be expensive.

Despite doing things better today, Siegel said there is room for improvement developing mutually benefiting partnerships in the future. Siegel would like to see the military broadly define environmental restoration from contamination cleanups to include long-term pollution prevention measures. “Encroachment” or “urban sprawl” issues within the communities surrounding the Bases need attention and the problems associated with sustainability and housing issues can be solved if both look to find common ground.

Stovepipe funding options need to be expanded, possibly through legislative change, to help common problems find common solutions. As communities learn the rules and science, issues that come up time and time again such as light, noise and traffic can be resolved with long-range partnerships. Military readiness and community lifestyles can

co-exist without conflict with some external organizing and expanded goals beyond cleanup.

Status of the DOD RAB Rule: Pat Ferree, OSD

Pat Ferree is responsible for developing planning, policy and guidance for the Environmental Restoration Program and provided a status report on the DoD proposed Restoration Advisory Board (RAB) rule. The proposed RAB rule was published in the Federal Register in January 2005 and the comment period closed in March 2005. DoD is currently responding to comments and preparing a Final Rule.

Ms. Ferree is a huge advocate of RABS and appreciated the feedback from the RAB communities during the comment period. She said listening is the key and the government has learned a lot from RABS. Communities know the military more and understand that communication and cooperation with stakeholders is fundamental to the success of the Defense Environmental Restoration Programs. Greater involvement from the community through RABS, TRCs, and other public involvement venues has expedited DoD's fulfillment of its environmental restoration requirements. More importantly, these partnerships have increased credibility and improved community acceptance and support with more responsive cleanups.

As for the proposed RAB Rule, Ms. Ferree appreciated the feedback from the communities (219 active RABS), with 129 comments submitted by citizens. Most of the comments received have focused on new rule additions.

- **Conditions for RAB adjournment with procedures for dissolution.** When does a community know to end a RAB and how does the DoD set requirements for adjournment procedures, dissolution procedures, reestablishing an adjourned or dissolved RAB, and public comment.
- **Expanding RAB authority to include Military Munitions Response Program (MMRP) to include participation based upon current RAB guidance.**
- **How the DoD goes about documenting RAB activities.**

The new RAB Rule is anticipated to become final early next year.

Cleanups in my Community: Kent Benjamin, EPA

Kent Benjamin spoke on EPA's Community Action for a Renewed Environment Program (CARE). CARE is a community-based, community-driven, multimedia program designed to help local communities understand and reduce exposures from toxics at the local level.

Mr. Benjamin said the CARE Program takes a more "holistic" approach to addressing environmental pollution risks through collaborative action at the local level. This is different from other EPA programs as the community sets the priorities through cross-agency partnerships to address sources of toxics exposure and choose solutions that best

fit their needs. Benjamin said the CARE's program is intended to help enable communities build self-sustaining, community-based partnerships that will continue to improve local environments well into the future.

The CARE Program is a two-system nation-wide grant competition. Grants will be distributed in amounts ranging from \$75,000-\$275,000. Level I grants will be used by communities to assess community risk reduction priorities. Once the community has determined the risks and is ready to implement a solution, a Level II grant can be applied for to fund self-sustaining projects to improve the local environments.

The total estimated funding expected for all awards is \$1.65 million for 2005 for approximately 75 voluntary programs around the country. The budget would increase 50% to over \$2 million in 2006. EPA anticipates awarding six Level I cooperative agreements ranging in expected value of about \$75,000. EPA will award four Level II cooperative agreements ranging at about \$275,000. The estimated project period for the awards is two years.

Mr. Benjamin said the government needs to lead, follow or get out of the way and this is a good program. CARE enables communities and builds capacity for environmental stewardship. If people feel listened to and empowered they can see their decisions turned into action.

COMMUNITY INVOLVEMENT GENERAL QUESTION AND ANSWER PERIOD

Are there any outreach tools available to increase involvement and maintain participation with RABS? Lenny Siegel said to assess or figure out the problems---ask questions. Is the RAB empowered? Is anyone listening? RABs may have to reopen the process for new people to the site. Scheduling meetings at more convenient times? Pat Ferrebee said the agencies should keep talking to the communities all the time. Send people out to the neighborhoods to find out what's going on. Also keep good records at the information repository so the opportunity is always there to learn about current cleanup status. Russell Clayschulte said doing a holistic approach might show the RAB focus is too narrow---broaden the RABs intent. Try to look, we talk but don't practice outreach. How can we expand the focus of the RAB?

What is the date for the RAB rule? Pat Ferrebee said all comments have to be responded to and sent to all of the services for formal coordination. Ferrebee said it could be a short time or long time depending on the comments before publishing. Possibly early next year.

One person commented on a dysfunctional RAB in Texas (a reference was made to Kelly Air Force Base0;) the structure did not represent or was set-up to address the issues. What the community wanted was an apology and health care instead of clean groundwater. The tensions were so high RAB members even feared for their personal safety.

If the RAB is not productive, communication can still be sent to the affected community. Kent Benjamin mentioned the Environmental Justice topic of communicating issues properly and outside the RAB through radio, cable television and mailers to send information to the community. Pat Ferree added that if the RAB is inadequate, go beyond conventional ways to communicate issues and concerns. Russell Clayschulte said walk in as a citizen and take a look at the RAB from a different direction to solve problems.

FROM FORMALLY USED DEFENSE SITES (FUDS) TO FORMALLY UTILIZED SITES REMEDIAL ACTION PROGRAM (FUSRAP)

Moderated by: Graham Mitchell, OH

This session reviewed two cleanup programs managed by the U.S. Army Corps of Engineers (ACOE). The ACOE is responsible for the overall management of both the FUDS and FUSRAP programs. This session focused on what aspects of the two programs work best. The Commonwealth of Massachusetts showcased their FUDS Management Action Plan (MAP), and, hopefully, States with FUSRAP sites can use the FUDS MAP as a model for the FUSRAP program to improve relationships and performance.

PRP and IC Issues: Tomiann McDaniel, ACOE

Tomiann McDaniel, ACOE, provided an overview of the FUSRAP program, and stated that she often updates the ASTSWMO Radiation Focus Group on the success and failures of the program. She noted the FUSRAP is a DOE program that is “executed” by the Corps. DOE has the authority to determine whether a site is eligible for inclusion in FUSRAP. They also have the responsibility for long-term stewardship of these sites. The Corps’ authority to perform the cleanups on these sites comes from Public Law 106-60, Section 611. Funds are specifically appropriated on an annual basis for FUSRAP in the Energy and Water Appropriations Act. She also acknowledged that the FUSRAP budgeting process goes from the Corps to the Assistant Secretary of the Army for Civil Works, and then to the Office of Management & Budget. It was noted that there are fewer FUSRAP sites than FUDS, and a summary was outlined as follows. There are currently 22 active sites in nine (9) States (CT-1, IA-1, MD-1, MA-1, MO-4, NJ-4, NY-6, OH-3, and PA-1), and, there are seven (7) sites undergoing Preliminary Assessments prior to designation determination (IN-1, OH-5, and NY-1).

Ms. McDaniel provided a FUSRAP status update. She stated funding over the years has been “flat” at about \$140M, but in FY05 the funding received was \$164M, and for FY06, ACOE has requested \$140M. There are two (2) sites that have been transferred back to DOE, seven (7) sites that are “under construction,” four (4) sites with Records of Decisions (RODs) pending, and 15 of 27 remaining sites in need of RODs. Of the 21 sites to be completed, there are 33 Operable Units (OU), with 31 OUs to complete. The ACOE expects to closeout the FUSRAP program in 2016. Additionally, ACOE is doing PRP follow-up work begun by DOE, and evaluating LUCs / Institutional Controls (ICs)

with private versus government-owned sites. Lastly, Ms. McDaniel stated that ACOE manages a site for two (2) years after completion, prior to transfer back to DOE's Legacy Management Office.

Further information can be obtained from Tomiann McDaniel, FUSRAP Team Leader, telephone: 202-761-5440

FUSRAP web site: <http://environmental.usace.mil/programs/fusrap/fusrap.html>
DOE "Considered Sites" web site: <http://csd.apps.em.doe.gov/>

New York's FUSRAP Program: Barbara Youngberg, NY

Barbara Youngberg, NYS DEC, stated that she has been involved with the FUSRAP since October 1997, and has a different tally on the number of sites in NY. She believes NY has ten (10) sites / properties, with three (3) complete, three (3) with active onsite work, and four (4) in "various stages." A major concern was related to the ACOE process for issuing RODs, i.e., 'it is closed, and doesn't allow for direct State input.' NY cited cases where they do not agree with the clean-up criteria. For example, the Linde Air site, where a very high uranium clean-up criteria was set by ACOE, such that it technically exceeded the 0.05% by weight rule for licensing of source material. Nonetheless, it was noted that even if there may be disagreement on clean-up criteria, given the physical nature of particular sites, and site-specific field screening performed by both NY and ACOE staff the "final state" is often acceptable to NY. It was also noted that the ACOE fund two (2) FTEs for oversight of the FUSRAP work in NY. Ms. Youngberg explained how the ACOE uses a Technical Planning Process (TTP) for developing work plans for FUSRAP sites.

In one case in Albany, NY (i.e., the National Lead depleted uranium – DU site), DU was found in a streambed. She explained once this issue was raised, the ACOE found related technical information, met with the State staff to review it, and thought the whole process worked well to resolve the concern. However, Ms. Youngberg did have apprehension about the ACOE approach to LUCs. NY believes if ICs are to be used by the federal government, these controls must be clearly stated in the ROD, and be enforceable. NY is also questioning the approach the ACOE uses to prioritize onsite work. They have one site where there is a PRP and remediation work is being undertaken, and there is an effort to add this site to the FUSRAP. A second site is also being added, but has no PRP or ongoing remediation. Ms. Youngberg feels the State should have some input as to the prioritization of remediation at these two sites.

The Success of the Massachusetts FUDS Management Action Plan (MAP): Gary Waldeck, MA

Garry Waldeck provided an overview of the Massachusetts FUDS MAP. Specifically, he discussed the major points of the MA MAP pilot objectives, a summary of the MAP pilot and the benefits. First, the pilot had the objective to identify the "FUDS universe in MA," and review and resolve the various lists of FUDS and potential FUDS. Other

objectives included: an evaluation of FUDS for imminent hazard conditions, a review of the ACOE's "no further action" (NFA) recommendations, and gather information to assist in developing prioritization recommendations. He also discussed the Phase 1 activities started in August 2002, which included the collection and review of MA DEP and ACOE files and inventory project reviews (INPRs); identification of 327 potential or confirmed FUDS from the ACOE database; and conducting site visits. Other Phase 1 activities included: completion of site reports for each site; recording GPS coordinates and digital photos; evaluating for conditions of imminent hazards; and sorting sites into categories. The Phase 1 activities also identified ACOE NFA determinations that DEP agreed with, sorted duplicate listings for exclusion, and identified NFA determinations that need further review.

Results of Phase 1 included the definition of the universe of FUDS in a Future Years Plan, identification of 83 Categorical Excluded sites (most through duplicate listing), and identification of FUDS sites that ACOE had a NFA recommendation. However, MA DEP needs more information before it accepts those recommendations. There were no "non-UXO" sites identified to have imminent hazards, and all were mapped using GIS. To resolve the lack of information issue, DEP wrote a contractor Phase 2 work plan to examine 68 sites: 56 for initial investigation, and 12 focused site investigations. The initial site investigations included federal, State and local file review and aerial photo review, but no samples were to be collected. The focused site investigations incorporated the same activities, but included some limited sampling and analytical analysis. There was no determination of the extent of the contamination, only if it was present. DEP is proposing to agree with 56 additional ACOE NFAs, and has documented why 58 ACOE NFA sites need re-examination.

Mr. Waldeck provided a summary of next steps which included: documenting why NFA is not appropriate at FUDS; asking ACOE to re-examine their determination; continuing to prioritize FUDS work; reviewing ACOE-confirmed FUDS to ensure all sources are identified; implement a mutually agreed to MAP with ACOE; and working towards completing an accurate FUDS Future Years Plan and cost. He concluded his presentation noting that the benefit of such an approach is to: have a better understanding of an under funded FUDS program within DEP; obtain agreement on the number of FUDS; provide NFA letters to property developers; high-light unidentified projects; determine needed funding levels; and ultimately the major plus is to have an accurate FUDS Future Years Plan.

MANAGING EARLY TRANSFERS AND REDEVELOPMENT OF FEDERAL FACILITIES

Moderated by: Ruben Zamarippa, MO

This session provided three perspectives on early transfer and cleanup privatization of federal facilities.

Early Transfer in California: Isabella Alasti, CA DTSC

Isabella Alasti described California's approach to managing early transfers of federal facilities. Although early transfer under CERCLA 120 (h)(3) is not appropriate for all federal facilities, California has found this mechanism useful for some installations. In order for early transfer to occur, the State and EPA (for NPL sites) must make the six findings identified in CERCLA 120 (h)(3)(C) to justify deferral of DoD's warranty (or covenant) that all response actions have been taken. Once the covenant deferral has been granted, California uses a series of controlling documents to provide assurances that the cleanup will occur and that human health and environment will be protected during the covenant deferral period. Examples of these California controlling documents include:

- Consent Agreement (non-NPL) or Administrative Order on Consent (NPL)
- Land Use Covenant
- Federal Facilities Agreement (NPL) or Federal Facilities Site Remediation Agreement (non-NPL)
- Insurance policies – for stop loss and unknowns
- Finding of Suitability for Early Transfer (FOSET)
- Miscellaneous federal/local agreements

California has the authority to enter into enforceable cleanup agreements with past and present property owners. They also have authority to restrict land use. By using the early transfer provisions of CERCLA 120(h), regulators and locals have substantial leverage for negotiation of effective remediation agreements.

Privatization of cleanups frequently occurs in conjunction with early transfer. Although these privatized cleanups are not identical to performance-based remediations being conducted at many military bases, many of the lessons learned from PBC cleanups may be useful for privatized cleanups. The financial incentive of privatized cleanups may encourage a minimalist approach to remediation objectives, which may not adequately reduce DoD's environmental liability.

South Weymouth Naval Air Station: Bryan Olson, EPA Region 1

Bryan Olson described his experience with the South Weymouth Naval Air Station in Massachusetts. South Weymouth NAS was a 1,400-acre facility located 20 miles from Boston, along a commuter rail line. In 2003, the U.S. Navy proposed privatization of the base cleanup using the early transfer provisions of CERCLA 120(h). South Weymouth could have been the first NPL-listed federal facility to be early transferred. Because of

the site's NPL status, concurrence from both the EPA Region 1 Administrator and the Massachusetts governor is required to enable early transfer. An environmental contractor, under a fixed price contract with the South Shore Tri-Town Development Corporation (SSTTDC), would then complete the cleanup. EPA embraced the early transfer concept and received funding from the Navy for four full-time equivalents in 2004. The Navy also would provide \$50 million in cleanup funding over three years. Regulatory oversight of the cleanup was to be funded by the developer.

In 1998, the three adjacent towns approved an initial reuse plan. The developer produced another reuse plan in September 2004, which incorporates Smart Growth principles. Although EPA supports the new reuse plan, the Navy believes it to be inconsistent with a no-cost Economic Development Conveyance. Negotiations are currently on hold and the ultimate fate of this early transfer is unknown.

Managing Early Transfers And Redevelopment of Federal Facilities - a Developers' Perspective: Gordon Hart, Partner, Paul, Hastings, Janofsky & Walker LLP

DoD does a good job with many aspects of base cleanup, but does not match cleanup plans with reuse plans, and this gap is widening. There is an inherent conflict between DoD cleanups and redevelopment. CERCLA requires DoD to "come back" for additional cleanup if necessary, but this is quite unlikely if the need for cleanup is due to a change in the reuse plan. DoD will incorporate redevelopment needs into the remedy selection process, if "reasonably practicable".

The Local Reuse Authority (LRA) should consider the environmental condition of property when developing their reuse plan. Unfortunately, site characterization is frequently incomplete when the first reuse plans are developed, and these plans are usually based on short-term fears. Planners have the choice of developing flexible or specific reuse plans. A flexible land use plan leads to a more extensive cleanup, but may not be accepted by DoD and might lead the public to the unreasonable expectation that the entire base will be cleaned to unrestricted use. A specific land use plan incorporates the environmental condition of property, but may lead to excessive restrictions on future land use. An October 2004 Air Force policy memo advocated cleanup in accordance with past military use of property rather than proposed use.

Past DoD cleanup approaches, recent policy trends and changes coming with BRAC 2005 raise concerns that DoD and the General Services Administration (GSA) are moving toward sale of closed bases in "as-is" condition.

Several questions were asked about the involvement of regulators and military components in land use planning. Frequently, this planning is done without DoD or regulator involvement. Marine Corps Air Station El Toro, McClellan Air Force Base and Watertown Arsenal in Massachusetts were cited as examples where the military components and/or the regulators were involved in the land reuse planning effort.

Assistance is available to communities through the Office of Economic Adjustment (OEA) and the National Defense Industrial Association (NDIA). The Center for Public Environmental Oversight (CPEO) is contemplating workshops in New England to assist communities near BRAC 2005 installations.

EPA'S FEDERAL ENVIRONMENTAL WORKGROUP AND ONE CLEANUP PROGRAM

Moderated by: Clarence Smith, IL

This session focused on why the One Cleanup Program was created, its goals, and how with the creation of various groups that included representatives from different federal agencies and ASTSWMO, three main issues were identified and keep being addressed.

James Woolford, Director of EPA's Federal Facilities Restoration and Reuse Office

Mr. Woolford started by giving a little bit of background as to how the One Cleanup Program started. He said that Marianne Horinko, former Assistant Administrator for the Office of Solid Waste and Emergency Response, started this initiative. She had experience with RCRA and CERCLA and had the idea that a good cleanup should be transparent even though it is being done under UST or RCRA. The principal fact of this effort is that EPA should be able to transfer information from one program to another. With this in mind, Mrs. Horinko talked to private, federal and other groups, and came up with ideas and initiatives. With the input given, Mrs. Horinko divided the goals into three: (1) More consistent and effective cleanups, (2) Clear and useful information about cleanups, and (3) Better performance measures.

The Federal Environmental Executive Policy Committee was convened in July 2003 and a senior staff-level work group was formed, to fulfill the request from other federal agencies to participate in the creation of this effort. The Federal Environmental Work Group (FEWG) was convened in November 2003 with representations from a wide range of federal agencies and ASTSWMO, to have the States and Territories input. Even though there were 3 issues identified, the States were most interested in the RCRA/CERCLA integration. The other two issues were: the lead agency designation at sites with mixed ownership/authorities, and joint mine waste repositories.

The FEWG developed issue papers for these three topics to define the scope of each problem, provide options and recommendations for resolution and estimate the resources needed for its implementation. Since the issue papers were operated by consensus, it was a hard process to agree on every word. The recommendations that were implemented included the drafting of several documents such as: EPA Policy Memorandum on Joint Repositories and Mixed Ownership Hardrock Mine Sites and Sample MOU; and the EPA Policy Memorandum on RCRA/CERCLA Coordination at Federal Facilities, Collaborative Decision Making and Statements of Principles to guide site cleanups for two different scenarios.

When Mrs. Horinko left EPA last October, phase II was started. The secondary benefits gained from Phase I was better communication, face-to-face discussions and information exchange. Mr. Woolford thanked Stephen Hammond, Jennifer Robert, Rick Moss, and Dania Rodriguez for their participation in this effort.

Then Mr. Woolford divided his presentation into the three main issues, starting with the Joint Mine Waste Repository (JMWR). The concerns with JMWR are the responsibility for future costs and the interpretation of Section 9(i) of EO 12580. Also, the uncertainty created more problems such as what happens and who will pay and/or handle future releases due to the multiple repositories. EPA has developed a policy that encourages EPA Regions to work with Federal Land Managers (FLM) to maximize appropriate use of joint repositories on public lands under FLM jurisdiction, private property or both, as well as providing environmental, engineering, and economic criteria for EPA Regions to consider prior to pursuing a joint repository. Also, a sample MOU was developed with language that provides appropriate financial arrangements and assurances within each involved party jurisdiction and EO 12580. The implementation of both the policy and sample MOU will be monitored by the FEWG.

The RCRA/CERCLA Coordination concerns were that even though both programs have similar procedural requirements, there is still a lot of redundancy and a lack of uniform treatment for cases that involve both federal statutes. As a result, there is a delay in property transfer and an increase of time and costs. EPA has developed a policy "Improving RCRA/CERCLA Coordination at Federal Facilities" that builds on 1996 guidance on RCRA/CERCLA coordination and addresses issues relating to RCRA permitting obligations due to the 2003 guidance on Corrective Actions. Also, there was an agreement in the FEWG to endorse education and outreach to EPA Regions, States and federal agencies for the need of early cross-program coordination and opportunities for integration. This policy has a target date for completion of August 2005.

The Lead Agency Designation or a Collaborative Decision Making was one of the three main issues that needed special attention because agencies may have simultaneous jurisdiction and cleanup can involve mixed ownership areas. The group focused on the need to clarify who has the ultimate authority for remedy selection, how the process of dispute resolution should be done, and who will bear the cost and how the notification for anticipated response actions. The FEWG is developing two Joint Statements of Principles to guide site cleanups: one for FUDS and the other one to attend Mixed Ownership sites where joint exercise of FLM and EPA cleanup authority is required or desired. The target completion date for these documents is Fall 2005.

Questions & Answers:

- What type of policy are the FLMs and DoD is coming out with? *Policy is how FLM and DoD will coordinate where they have interest and concurrent jurisdiction. ASTSWMO has had representation. FLMs want FUDS MAPS together with States to reconcile inventory priorities. The FLM issues have a lower priority due to the lack of public interaction.*

- Was GSA invited to FEWG? *They were invited but they chose not to participate.*
- How will GSA comply? *“Kicking and Screaming” and they will be informed.*
- Will the policies do anything? *They have the consensus of federal agencies and it has been coordinated with States. It took over a year to come to consensus for a paper, for regulations or for a Congressional action it will take more.*

PERCHLORATE, THE ROAD TO REGULATION

Moderator: Ed LaRock, CO

EPA Region 9: Kevin Mayer, Perchlorate Regional Coordinator

A discussion of Region 9’s Perchlorate regulatory path was provided under two programmatic elements: solid waste (Superfund and RCRA) and drinking water (Safe Drinking Water Act). The San Gabriel and Aerojet sites were identified and discussed as examples of projects regulated under Superfund and RCRA. The Perchlorate MCL promulgation experience in accordance with the SDWA rule making process was also discussed.

The Superfund program requires examination of all contaminants at a site. Perchlorate assessment experience began in the early 1980’s at a large Superfund Site in San Gabriel, CA. While Perchlorate was not regulated at the time, Perchlorate detections posed challenges given the lack of inherent toxicological information for risk assessment purposes. Other challenges included inconsistent detections, and upon anion detection, no risk information that would support assessment and cleanup decisions. In the 1990’s, Perchlorate was discovered in groundwater at the Aerojet manufacturing site in Rancho Cordova, CA at concentrations greater than 1000 ppb in an aquifer. Still, in 1996, the Agency was grappling with answers to the question “should we be worried?”

The internal EPA scientific process resulted in the compilation of data and the development of a provisional Reference Dose (RfD) that subsequently was equated to a range of 4 – 18 ppb in groundwater in 1995. The range was communicated to interested parties not as a regulatory standard, but as a scientific “starting point” that employed an RfD (dose). The answer from the National Academy of Sciences (NAS) was 0.0007 mg/kg-day, further equated to a Drinking Water Equivalency Level (DWEL) of 24.5 ppb, that considers the following parameters: RfD (mg/kg-day); body weight (standard 70 kg adult); ingestion rate of drinking water (standard 2 L/day); and a Relative Source Contribution (20 to % range or 100%). Mr. Mayer proceeded to present a map of individual Perchlorate sources in California at State-lead sites, Superfund sites, site assessment areas and contaminated areas of the Colorado River.

Regarding the Perchlorate MCL promulgation, Mr. Mayer discussed the Safe Drinking Water Act promulgation process as one that is attained in a stepwise fashion, involving:

1. identification of possible drinking water contaminants
2. gathering of specific information
3. gathering of additional information
4. seeking public and expert input

5. proposing a standard (MCLG)
6. seeking more input
7. promulgation of a final standard (MCL).

Mr. Mayer noted that the State of California was currently engaged in the specific information gathering (Step 2)¹. SDWA's regulatory process is prescriptive as to the approach for development and promulgation of a fully enforceable drinking water standard. According to Mr. Mayer, the EPA has 24 months to propose a MCL and a MCLG (non-enforceable MCL Goal), and within 18 to 27 months after the proposal, the EPA must publish a final rulemaking (MCL). The process must undergo considerable expert and public input during each stage of implementation. Four factors are also evaluated when deciding whether to regulate or not regulate a constituent in accordance with SDWA: toxicity (EPA referred this challenge to the NAS, National Research Council Committee); analytical method (EPA notes Agency and commercial laboratory-specific improvements); and treatment technologies with a nexus on cost and occurrence.

The regulatory determination in accordance with Section 1412(b)(1) looks to see if the constituent poses an adverse health effect, a substantial likelihood of frequent occurrence and level of public concern, as well as the opportunity to provide for meaningful risk reduction in public water systems that is protective of human health. With regard to public water systems, Mr. Mayer presented a national map showing public systems with Perchlorate detections greater than or equal to 4 ppb.² Bar charts were also presented noting the number of public water systems (x) against Perchlorate concentrations (ug/L).

The Perchlorate regulatory status (as of August 2005) was noted as follows:

- No Federal Standard whereas only site-specific decisions are made under CERCLA, RCRA and/or SDWA
- EPA may issue a Guidance Memorandum for Superfund in the near future
- EPA may issue a *Health Advisory* as Drinking Water guidance in the interim.

DoD's Perspective and Future Plans Regarding Perchlorate: Shannon Cunniff, Office of Secretary of Defense, Special Assistant, Emerging Contaminants

Ms. Cunniff began the presentation by discussing DoD's mission statement and DoD expenditure reaching approximately \$40M on treatment technologies (although it was noted that DoD has not been successful in flagging exactly how much money has been spent directly on Perchlorate). Ms. Cunniff noted that of all the drinking water supplies sampled for Perchlorate, only four (4) samples had Perchlorate detection between 5 and 6 ppb. One hundred and twenty seven (127) facilities have been sampled for Perchlorate (58% of all facilities nationwide). Ms. Cunniff discussed the recently approved California Prioritization Protocol (MOU between DoD and the State of California) and the fact that application of this protocol revealed Perchlorate sites at 87 facilities and 227 Formerly Used Defense Sites (FUDS) warranting reevaluation, and Perchlorate sites at 5 federal facilities and 12 FUDS.

¹ As of August 2005.

² August 2004 data from EPA's UCMR Program, as mapped by Dr. Phil Brandhuber for AWWA.

Next steps to follow (in accordance with the Protocol) include the development of a Scope of Work (SOW) for priority sites where Perchlorate has been determined to be a DoD responsibility (with the intent to also include Perchlorate in site remedial decisions) and for DoD to work with water purveyors.

Ms. Cunniff ascertained that the Interagency Working Group fully accepts EPA's IRIS RfD. With regard to DoD's Perchlorate policy, Ms. Cunniff addressed and clarified the intent of the Interim DOD Policy. DoD is focusing on Perchlorate pollution prevention and recycling efforts.

Regarding Perchlorate pollution prevention, DoD continues to work with all stakeholders and incorporates these efforts into existing remedial plans. The DoD is also researching pollution prevention alternatives such as new chemistries for smokes and flares, noting that these look promising. Regarding recycling efforts, DoD has a missile-recycling center at the Anniston Army Depot. This center enables the safe disposal of obsolete missiles.

Ms. Cunniff noted some of DoD's pollution prevention "lessons learned" as:

- Those pertaining to risk assessment challenges, noting that these processes themselves are cumbersome and take a long time, potentially threatening public health and public confidence;
- The rapidly evolving nature of science, whereas every 4 to 5 months there are new fate and transport findings (e.g, Perchlorate naturally occurring and man-made sources);
- The need for DoD to be more effective in educating the public, noting that DoD had not gotten a "fair shake" as to all the efforts they are putting into Perchlorate research and cleanup.

Ms. Cunniff noted that there is a need for more coherent ways to evaluate and manage risk from chemicals, including those that were used in the past, are currently being used, and are planned for use in the future. DoD's next steps include continuing to work on technology demonstration projects such as SERDP and ESTCP. It was announced that Southern California would be receiving \$9M to investigate known and unknown sources of Perchlorate. DoD also received letters from the State of California requesting the investigation of sites and DoD responded to these letters by stating that significant dollars would be needed to respond or "deal" with all sites. This response leads to the development of the Prioritization Protocol. Even though some sites were not prioritized, Ms. Cunniff noted that they were not "off the books", yet they do not include "range" facilities.

Currently, new legislation (enacted by DTSC) has been put together to deal with new sources. A workshop devoted to this pollution prevention legislation was announced for August 19, 2005.

Perchlorate, the California Experience: Rick Brausch, California Environmental Protection Agency, Assistant Secretary for External Affairs

Mr. Brausch began his presentation by noting the players in the California Perchlorate arena, including: State Water Resources Control Board (9 regional water quality control boards); Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment; and the Department of Health Services / Division of Drinking Water and Environmental Management. In California, Perchlorate detections go back to 1997, when Perchlorate was discovered in the Los Angeles area [citing aquifers near the Aerojet General (Azusa); Whittaker-Bermite (Santa Clarita); and Jet Propulsion Laboratory (Pasadena) sites]. Perchlorate was also detected and measured in wells located in Riverside and Bernardino Counties [Lockheed Propulsion (Riverside) and Fireworks/pyrotechnics (Rialto)]. Other sites identified by the State include: explosives facilities near Lincoln (Placer County), United Technologies (Santa Clara County); and the Whittaker Ordnance Facility (San Benito County). In the Colorado River Valley, low levels (5 to 9 ug/L) were detected at the Kerr McGee site, gradually unfolding the Perchlorate picture in the State.

In 1999, DHS added Perchlorate to the list of “unregulated” chemicals to monitor. The UCMR requires the testing of vulnerable systems even if they do not have an established drinking water standard. Of 12,000 drinking water sources in California (7,000 subject to UCMR testing), 379 sources reported multiple Perchlorate detections³ (above 4 ppb) with 150 additional sources reporting a single detection.

At this time, Mr. Brausch noted that the State of California is working on the development of an MCL⁴. In the year 2004, Cal/EPA adopted a PHG of 6 ppb, which was reviewed in the year 2005 and maintained as the PHG. A requirement of adopting a MCL for California speaks to the MCL being “as close as technically and economically feasible to its PHG”. As noted by Mr. Brausch, in California it takes approximately 1 year for the promulgation of a final MCL.

Investigation and cleanup efforts were reported to be ongoing for approximately 35 confirmed release sites with an eye on releases impacting water resources. Other investigatory efforts include unknown sources and DoD sites, the latter comprising approximately 100+ open / closed installations and approximately 1200 FUDS. Mr. Brausch noted the application of the DoD Prioritization Protocol at sites in California and how its application has resulted in the prioritization of 39 sites at 24 facilities and 14 FUDS. With regard to prevention, State legislators passed the Perchlorate Contamination Prevention Act (2003) which employs best management practices for Perchlorate / Perchlorate-containing substances. In the interim, funding has been allocated to address challenges in Rialto-Conlon (\$6M) and \$42M dollar eligibility funding for water recycling projects including wellhead treatment. California State and Federal regulators to ensure coordination of Perchlorate matters hold monthly roundtable sessions. Mr.

³ By comparison to 150 sources of MtBE.

⁴ Status as reported in August 2005.

Brausch provided websites in support of technology sharing (Report on Perchlorate Treatment Alternatives) as well as DHS, Water Board and DTSC websites.

The Road to Regulation, Perchlorate in Massachusetts: Paul Locke, Massachusetts Department of Environmental Protection, Division Director, Policy and Program Development

Mr. Locke kicked off his presentation citing the old Boston axiom “you can’t get there from here” in response to the complicated path of Perchlorate regulation, given its inherent and numerous lines of evidence that warrant examination and consideration to ensure adequate risk assessment, policy and regulatory consideration. Mr. Locke noted how the Massachusetts’ Perchlorate experience began with the detection of Perchlorate at the Massachusetts Military Reservation (MMR) site in 2001. Low detection levels (less than 1 ppb) located adjacent to the several Town of Bourne production wells were later noted in 2002, followed by an MMR Report suggesting that a fireworks display could be a contributing source for one plume. In response to the Perchlorate detections in the Town’s water supply, and at the request of the Town, MA DEP developed a Health Advisory of 1 ug/L specific for sensitive subpopulations⁵, and 18 ug/L for the rest of the population.

Mr. Locke discussed how in moving forward with an MCL, MA DEP considers occurrence, levels, analytical method and cost, treatment capabilities/cost; and health impacts. With regard to the first criteria, MA DEP proceeded with Perchlorate occurrence monitoring resulting in the identification of detections 1 ug/L or greater at approximately 700 water supplies across the Commonwealth. The Perchlorate Occurrence Report revealed the following as potential Perchlorate sources: military use, blasting, fireworks, and industrial uses among others. Yet Perchlorate contamination in water supplies was not deemed pervasive in the Commonwealth according to these results. In response to detections of Perchlorate in private wells, the MA DEP abated imminent hazards⁶ by providing bottled water where necessary. This effort was followed by source discovery, fate and transport and treatability study efforts.

Follow-up fireworks fate and transport work is being conducted by MA DEP with modeling results noting the detection of approximately 40% Perchlorate in fireworks. With regard to blasting, the MA DEP worked with the Department of Fire Services and Fire Marshall in the drafting of a letter to blasting contractors and interested parties noting the presence of Perchlorate in blasting agents and explosives. The MA DEP, as discussed by Mr. Locke, also evaluated industrial discharges and the use of hypochlorite as a source of Perchlorate contamination, especially in surface water discharge points. Other sources researched by the MA DEP included household beach, which was tested and Perchlorate detections noted.

⁵ Sensitive subpopulations are defined as pregnant and nursing women, fetus, infant and young children, and individuals with hypothyroidism.

⁶ Imminent Hazard defined by regulation in 310 CMR 40.0000

As it pertains to cleanup standards development, MA DEP proposed groundwater and soil standards in the fall of 2004 and is currently following the MCL promulgation process steps in accordance with the Safe Drinking Water Act.

PLENARY SESSION: BENEFITS OF AN ENVIRONMENTAL MANGEMENT SYSTEM

Moderated by: Daniel Clanton, AR

Environmental Management Systems (EMSs) are a tool to improve the processes and actions that any organization agrees to undertake to meet its business and environmental goals. This session will focus on the Executive Order (EO) that requires all federal facilities to implement an EMS, showcase how a Federal Facility has implemented an EMS, and highlight the partnerships States have developed to support EMSs.

EMS: The Executive Order and Implementation of EMS at a Federal Facility

Moderator Daniel Clanton gave a brief discussion of ASTSWMO's Policy and Technology Focus Group's EMS Fact Sheet that is available on ASTSWMO's web site. The fact sheet includes internet links that describes an EMS, (EO 13148, compliance, federal contacts and other pertinent information. The focus group generated this fact sheet as a resource to provide as much information on an EMS as possible.

Unfortunately, Ed Pinero, Federal Environmental Executive, could not attend the Symposium so Jimmy Parrish, Defense Supply Center Richmond, gave Ed's presentation. An EMS in the federal community is important because it supports an agency's mission, provides a cost benefit and is required by EO 13148. Most departments and agencies have issued directives with many having EMS policies. Some challenges in implementing a federal facility EMS include resources and management support. As of right now, there are around 300 federal facilities with an EMS. Thirty have ISO14001 certification and hundreds of others are working on a new EMS. Agencies have developed and signed self-declaration protocols. Through an EO Work Group, guidance has been developed to assist agencies with self-declaration and EO 13148. Other federal EMS efforts have been utilized to help maximize the use of an EMS. For more information and updates, go to www.fedcenter.gov.

Success of a Stakeholder Focused EMS Partnership: Jimmy Parrish, DOD

After giving Ed's presentation, Mr. Parrish followed with his own, "The Success of a Stakeholder Focused EMS Partnership." He first provided background information on the Defense Supply Center Richmond (DSCR) of the Defense Logistics Agency (DLA). The DSCR supplies aviation parts, commodities, environmental products, maps and industrial plant equipment. It handles around 3.1 million annual requisitions for a total of roughly \$3.3 billion in sales.

The next talking point discussed an EMS. EO 13148 directs that all appropriate federal facilities have an EMS in place by December 2005. An EMS is a structured approach for

managing environmental responsibilities. The benefits include cost savings, confidence in regulatory compliance, a cleaner environment and improved “mission-readiness” for DoD facilities. Although an EMS is beneficial, there are concerns/skepticism that must be overcome.

To help overcome these concerns, the DSCR developed a Regional Environmental Management System (REMS). Through partnerships, a REMS can engage the EMSs of public and private organizations. This allows for improved communication and resulting trust, best practices sharing, and mutual involvement. Partnering with the county, city, and State regulatory agencies proved to be successful enough that the membership was expanded.

Mr. Parrish concluded his presentation by discussing several accomplishments that demonstrated how all parties benefit from partnering. Through partnering they found that regional cooperation helps by reducing costs through sharing of best business practices, the regulators are involved at the beginning, the private sector can teach lessons learned to the public sector and vice versa, and concerns can continually be addressed.

Benefits of an EMS, a State Perspective: Cheryl Coleman, SC

Cheryl Coleman, South Carolina Department of Health and Environmental Control, began her presentation by discussing ASTSWMO’s EMS White Paper. This was issued in March 2005 as a working document that provides State program perspectives on use of EMSs in waste programs. Several recommendations were included in this paper: engage EPA in support of EMS pilot projects; encourage use of EMSs through Supplemental Environmental Projects (SEPs); have EPA define core components of an acceptable EMS program; regulatory flexibility for EMS entities should be negotiated by EPA and State authorized programs; and ASTSWMO should encourage EPA-supported training on EMSs for State regulatory staff.

Ms. Coleman then went on to present information on EPA’s support for State EMS activities. This includes an EPA web site for EMS, grant funding to support State initiatives, and guidance for use of EMSs in State regulatory programs.

In conclusion, Ms. Coleman provided an example of how States are beginning to link EMSs to the regulatory framework. In South Carolina, an EMS has been required as part of an enforcement settlement. The EPA awarded an EMS in Permitting Grant to South Carolina in May 2005. The South Carolina experiment has several project goals: explore how an effective EMS can impact specific permit requirements; determine how an EMS can help with consistency in developing, issuing, monitoring and enforcing a permit; and evaluate benefits of incorporating an EMS as incentive for permitting options. To achieve these goals, project activities consisted of retaining EMS consultants; the participation of up to 4 facilities including 2 RCRA permitted facilities; conducting agency EMS staff training; analyzing participating facility permits and EMSs; and evaluating potential permit revisions based on findings.

AGENDA

Day One - August 3, 2005

6:45am – 4:00pm **Registration – *Empire Lobby***

8:30 – 9:00

Welcome and Opening Remarks

Empire Ballroom, Second Floor

Moderated by: Jim Ussery, GA – Chair, ASTSWMO Policy & Technology Focus Group

- Kathleen Johnson, Chief, Federal Facility and Site Cleanup Branch, EPA Region 9
- Dorothy Rice, Deputy Director, CA DTSC
- Alex Beehler, Assistant Deputy Under Secretary of Defense
- Clarence Smith, ASTSWMO Federal Facilities Subcommittee Chair

9:00 – 10:00

Plenary Session: ECOS-DOD Sustainability Workgroup

Empire Ballroom, Second Floor

Moderated by: Clarence Smith, IL

This session will showcase the partnership between ECOS and DOD and the formation and purpose of the Sustainability Workgroup. The workgroup focuses on three specific areas: Land-Use Controls, Emerging Contaminants, and Encroachment.

- Jon Sandoval, ID: Co-Chair of the ECOS-DOD Sustainability Workgroup
- Alex Beehler, DOD: Co-Chair of the ECOS-DOD Sustainability Workgroup

10:00 – 10:20

BREAK - *Empire Lobby, Second Floor*

10:20 – 11:50

Plenary Session: Base Realignment and Closure: What Can We Expect From BRAC 2005? - *Empire Ballroom, Second Floor*

Moderated by: Jeff Edson, CO

As States, EPA, DOD and Communities anticipate the next round of BRAC, everyone agrees there is much to be learned from the past four BRAC rounds. Since 10 years has passed since the last

round of BRAC, speakers will focus on lessons learned and what everyone needs to know about BRAC 2005.

- BRAC 2005 - What will it mean to the State of Connecticut?: Mark Lewis, CT
- The Army's Approach to BRAC: Rick Newsome, Army
- BRAC Lessons Learned from the State of California: Rick Moss, CA

12:00 – 1:30

Lunch with Keynote Speaker - *Franciscan Ballroom, Mezzanine*

Introduced by: Rick Moss, CA

Speaker: Mike Cohen, Director, Base Reuse & Redevelopment for the City of San Francisco

1:45 – 3:05

BREAK-OUTS

Session A: From Formerly Used Defense Sites (FUDS) to Formerly Utilized Sites Remedial Action Program (FUSRAP)

Empire Ballroom, Second Floor

Moderated by: Graham Mitchell, OH

The Army Corps of Engineers is responsible for the overall management of both the FUDS and FUSRAP programs. This session will focus on what aspects of the two programs work best. The State of Massachusetts will also showcase their FUDS MAP and hopefully, States with FUSRAP sites can use the FUDS MAP as a model for the FUSRAP program.

Speakers:

- PRP and IC Issues: Tomiann McDaniel, ACOE FUSRAP
- New York's FUSRAP Program: Barbara Youngberg, NY
- The Success of the Massachusetts FUDS MAP: Garry Waldeck, MA

Session B: Community Involvement at Federal Facilities

Cypress/Monterey Room, Second Floor

Moderated by: Laura Bishard, CO

Community involvement and outreach are important aspects of Federal Facilities. Across the country, EPA, DOD, States and locals work together to improve the overall process of public involvement at the numerous installations. This session will focus on the tools available to implement and improve community involvement at Federal Facilities.

Speakers:

- Status of the DOD RAB Rule: Pat Ferrebee, OSD
- Community Partnerships: Lenny Siegel, CPEO
- The Role of the RAB: Russell Clayshulte, Buckley RAB
- Cleanups in My Community: Kent Benjamin, EPA OSWER

3:05 – 3:25

BREAK - *Empire Ballroom, Second Floor*

3:25 – 4:45

BREAK-OUTS

Session A: Managing Early Transfers & Redevelopment of Federal Facilities

Empire Ballroom, Second Floor

Moderated by: Ruben Zamarripa, MO

DOD has used the early transfer process to accelerate the return of idle federal property to productive reuse by allowing property transfers to occur before environmental cleanup is complete. This session will evaluate the success and challenges associated with the transfer of contaminated federal property to the public and private sector. Panelists will offer first hand experience on the use of early property transfers, and the role of States, EPA and the developers in the process. The session will also go over the South Weymouth NAS in Massachusetts, the first NPL Federal Facility site to apply the early transfer approach in an effort to privatize the cleanup.

Speakers:

- Transfer and Privatization of South Weymouth NAS: Bryan Olson, EPA Region 1
- Why Property Transfers Work for the State of California: Isabella Alasti, CA
- A Developer's Perspective: Gordon E. Hart, Paul Hastings, Janofsky & Walker LLP

Session B: Challenges with Removals, RODS, and Five-Year Reviews at Federal Facilities

Cypress/Monterey, Second Floor

Moderated by: Jennifer Roberts, AK

Many Federal Agencies are using CERCLA authority to complete removal actions at both NPL and Non-NPL sites. Frequently the

goal of these removals is to reduce the risk, but the result often leaves waste in place or relies on a passive treatment (i.e. natural attenuation or landfills). Overall, is there effective management through time of these types of removal sites to ensure the cleanups are protective of human health and the environment?

Speakers:

- Presentation of Two Case Studies:
 - Hunter's Point: Tom Lanphar, CA
 - Red Devil Mine: John Halverson, AK
- ASTSWMO Removal Focus Group: Brad Johnson, UT

5:30 – 6:30 **Reception for Members and Guests – *Mezzanine Area***

ADJOURN

Day Two - August 4, 2005

7:00am – Noon **Registration - *Empire Lobby, Second Floor***

8:00 – 8:45 **Plenary Session: EPA's Federal Environmental Workgroup and One Cleanup Program - *Empire Ballroom, Second Floor***
Moderated by: Clarence Smith, IL

Presented by: Jim Woolford, Director, EPA Federal Facilities Restoration & Reuse Office (FFRRO)

8:45 – 9:00 **BREAK - *Empire Lobby, Second Floor***

9:00 - 10:30 **Plenary Session: Perchlorate - The Road to Regulation**
Empire Ballroom, Second Floor
Moderated by: Ed LaRock, CO

In January 2005, the National Academy of Sciences published the highly anticipated recommendation for a reference dose for Perchlorate, which was subsequently accepted by EPA. This session will focus on the impact of the reference dose on EPA, State and DOD perspectives and policy on promulgating regulatory standards for Perchlorate.

Speakers:

- EPA Path for an MCL: Kevin Mayer, EPA Region 9
- DOD's Perspective and Future Plans Regarding Perchlorate: Shannon Cunniff, OSD
- California MCL: Rick Brausch, CA
- Overview of Massachusetts Plan Addressing Perchlorate: Paul Locke, MA

10:30 – 10:45

BREAK – *Empire Lobby*

10:45 – 12:00

Plenary Session: Benefits of an Environmental Management System - *Empire Ballroom, Second Floor*
Moderated by: Daniel Clanton, AR

Environmental Management Systems are a tool to improve the processes and actions that any organization agrees to undertake to meet its business and environmental goals. This session will focus on the Executive Order that requires all federal facilities to implement an EMS; showcase how a Federal Facility has implemented an EMS; and highlight the partnerships States have developed to support EMS.

Speakers:

- EMS: The Executive Order and Implementation of EMS at a Federal Facility: Jimmy Parrish, DOD
- Benefits of an EMS, a State Perspective: Cheryl Coleman, SC

12:00 – 1:30

Lunch (On your own)

1:45 – 4:30

CONCURRENT TRAINING SESSIONS
(There will be a 20 minutes break from 2:50 – 3:10)

Session A: Munitions Training - *Empire Ballroom, Second Floor*
Moderated by: Clarence Smith, IL

Presenters: Doug Maddox & Kevin Oates, EPA FFRRO & Kurt Kratz, OSD

This training session will focus on EPA FFRRO's Munitions and Explosive of Concern Hazard Assessment (MEC HA) Workgroup,

EPA FFRRO training documents, DOD's Military Munitions Response Program and other important munitions issues.

Session B: DSMOA Training

Cypress/Monterey Room, Second Floor

Moderated by: Jennifer Roberts, AK

Presenters: Kellie Kachek, ACOE and Curvin Lee, CA

This training session will offer a condensed DSMOA 6-step process overview, the latest Automation and Financial Improvements, the State Accounting Reviews, impact of the Military Munitions Response Program to DSMOA, and the changes being made to the Cooperative Agreement by the Re-Write Team.

4:30 **ADJOURN**

Day Three - August 5, 2005

8:00 – 9:30 **State & EPA Policy Forum (CLOSED SESSION*)**

Empire Ballroom, Second Floor

Moderated by: Jim Ussery, GA

***NOTE:** *This session is only open to State & EPA attendees.*

This forum will offer State and EPA attendees the opportunity for candid, closed-door discussions on State and Federal program funding, the changing nature of Federal Facility cleanups, long-term operation and maintenance costs and strategies, and other topics submitted by attendees.

(Attendees will have the opportunity to submit questions anonymously the first 2 days of the Symposium)

Speakers:

- Jim Woolford, Director, EPA Federal Facilities Restoration & Reuse Office
- Clarence Smith, IL – Chair, ASTSWMO Federal Facilities Subcommittee

9:30 – 9:45 **Closing Remarks & Adjourn:** Jim Ussery, GA