

Federal Facility Cleanup Dialogue

September 21-22, 2011

Meeting Summary Report

Facilitator Notes:

This summary is designed to assist in identifying issues and appropriate next steps. While the organization of the summary mostly tracks with the meeting agenda, it is primarily organized by topic, not chronologically. Note that there is some overlap between themes. Presentations by government officials are included in more detail and with attribution to provide context. The majority of the document summarizes challenges, successes, and ideas for improvements identified by those other than federal officials.

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Acronyms

5YR	Five-Year Reviews
AML	Abandoned Mine Lands
BLM	Bureau of Land Management
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CHF	Central Hazardous Materials Fund
COC	Constituents of Concern
DOE	U.S. Department of Energy
DOD	U.S. Department of Defense
DOI	U.S. Department of the Interior
EJ	Environmental Justice
EPA	U.S. Environmental Protection Agency
FACA	Federal Advisory Committee Act
FFCD	Federal Facility Cleanup Dialogue
FFERDC	Federal Facility Environmental Restoration Dialogue Committee
FFRRO	Federal Facilities Restoration and Reuse Office
FMD	Federal Mining Dialogue
FUDS	Formerly Used Defense Site
IC	Institutional Control
IG	Inspector General
IWG	Interagency Workgroup
LANL	Los Alamos National Laboratory's
LTP	Long-Term Protection
LTS	Long-Term Stewardship
LUC	Land Use Control
MOU	Memorandum of Understanding
NALEMP	Native American Lands Environmental Mitigation Program
NEJAC	National Environmental Justice Advisory Council
NEPA	National Environmental Policy Act
OU	Operable Unit
RAB	Restoration Advisory Boards
RAO	Remedial Action Objectives
RCRA	Resource Conservation and Recovery Act
ROD	Record of Decision
RACER	Risk Analysis, Communication, Evaluation, and Reduction
TAP	Technical Assistance Program
TASC	Technical Assistance Services for Communities
UE	Unrestricted Exposure
USDA	U.S. Department of Agriculture
UU	Unlimited Use

I. Introduction

The Federal Facility Cleanup Dialogue (FFCD) was held on September 21-22, 2011, in Arlington (Crystal City), Virginia. The purpose of the meeting was to discuss the Federal Facility Cleanup Program progress since the previous meeting held on October 20, 2010, and to identify potential next steps for addressing the challenges of federal facility site cleanups. Participants in attendance included federal agency officials from the U.S. Environmental Protection Agency (EPA), U.S. Department of Energy (DOE), U.S. Department of Defense DOD (including Air Force, Army, and Navy officials), U.S. Department of the Interior (DOI), and U.S. Department of Agriculture (USDA); state, tribal, and local government representatives; and national and local community members from across the country who are actively engaged in and/or concerned about the cleanup program.

- The meeting agenda can be found in Attachment A.
- Presentation materials by Maureen Sullivan (DOD) can be found in Attachment B.
- Presentation materials by Monica McEaddy (EPA) can be found in Attachment C.
- Additional written comments, which were not shared with the group during the meeting but were provided to the facilitator subsequent to the meeting, can be found in Attachment D.
- Information on communication apps provided by DOE can be found in Attachment E.
- A summary of the DOI's activities provided by Bill Lodder can be found in Attachment F.
- A participant contact list can be found in Attachment G.

II. Opening Comments

Leadership from EPA, DOD, and DOE and the facilitator made opening comments to provide context for the meeting and review meeting goals and desired outcomes.

A. Mathy Stanislaus, Assistant Administrator of EPA's Office of Solid Waste and Emergency Response

Mr. Stanislaus welcomed and thanked everyone for taking the time to attend this important meeting. He expressed hope that the meeting would produce the following outcomes to make further progress:

- Build upon discussions from the October 2010 Dialogue meeting;
- Determine a path forward; and
- Identify incremental actions that can be implemented for tangible "on-the-ground" improvements.

Mr. Stanislaus noted a few of the federal facility cleanup accomplishments:

- Construction complete at 40% sites.

- Thousands of acres of land are being reused and serving as the basis for local job generation and income.
- New technologies have been developed to deal with unique issues at federal facility sites.

Mr. Stanislaus reminded everyone that work on improving federal facility cleanups has been going on for some time. There were two previous multi-stakeholder efforts focused on federal facility cleanups: the Federal Facility Environmental Restoration Dialogue Committee (FFERDC)¹ during the 1990s, and the National Environmental Justice Advisory Council's (NEJAC) Federal Facilities Working Group² from the early 2000s. These previous efforts established principles and priorities that led to significant advances in federal facility cleanups.

He noted, however, that there is still more that remains to be done and asked what actions need to be taken to get to the next stage. He reminded everyone that while EPA provides oversight, leadership for cleanup is in the hands of DOD, DOE and other federal agencies (e.g., DOI and USDA). He also noted that there are things over which EPA and other federal agencies have no control (e.g., the overall federal budget).

Mr. Stanislaus observed that stakeholders have consistently raised concerns regarding long-term protection (LTP) and Five-Year Reviews (5YR), information sharing, and environmental justice (EJ) within the context of the current fiscal environment, and he expected the following questions would be asked:

- How do we ensure a remedy stays in place and continues to work?
- How do we improve communication to our stakeholders?
- How do we communicate to stakeholders if the remedy is failing or not protective?
- How do we maintain and enforce institutional controls (ICs)?³

He emphasized that this meeting was not intended to interfere with other mechanisms that are already in place to address these issues, and that this dialogue presents an opportunity to implement commitments from the recently signed *Memorandum of Understanding on Environmental Justice and Executive Order 12898*.

B. Kristi Parker Celico, Facilitator, Rocky Mountain Collaborative Solutions

Ms. Celico provided context for the meeting by looking back at the October 2010 Dialogue meeting and noting that this meeting is an effort to continue the dialogue and ensure progress on issues and actions identified in October 2010. She also noted that

¹ The full FFERDC report can be found at <http://www.epa.gov/fedfac/pdf/fferdc.pdf>

² The full NEJAC report can be found at <http://www.epa.gov/compliance/ej/resources/publications/nejac/ffwg-final-rpt-102504.pdf>

³ ICs are legal or administrative mechanisms to restrict land or water use associated with cleanups to ensure the remedy or otherwise limit exposure, examples include deed restrictions, environmental covenants, environmental easement, and advisory signs (e.g., restrict fishing). EPA issued draft IC guidance in November 2010 and expects to issue the final guidance by the end of the 2011 calendar year.

approximately half of those attending this meeting attended last year's meeting. Additionally, this meeting is smaller than last year to encourage dialogue.

Ms. Celico then reviewed the meeting goals, possible outcomes, and ground rules of the meeting. (*Meeting agenda is provided as Attachment A.*)

Meeting Goals:

- Provide updates regarding activities since the 2010 FFCD meeting.
- Identify potential next steps to issues raised at the 2010 FFCD meeting regarding LTP, resolving site-specific issues, information sharing mechanisms, and EJ.
- Solicit individual input on proposed federal agency changes to 5YR process.

Possible Outcomes of this Meeting:

- A meeting summary shared in draft with this group.
- DOD, DOE, and EPA incorporating input into their agency decision-making, as appropriate.
- DOE considering the input and discussing further with their stakeholder groups (e.g., Environmental Management Site-Specific Advisory Boards, State and Tribal Government Working Group, etc.), as needed.
- DOD and EPA considering the input and discussing further with DOD and EPA stakeholders of this group and others, as needed. Possible mechanisms include conference calls or webinars.
- Neither a Federal Advisory Committee Act (FACA) process nor in-person meetings are anticipated as likely follow-up actions.

Meeting Ground Rules:

- This meeting is to obtain individual input, not reach group consensus.
- This should be a dialogue not monologue.
- Do not just provide problems but also provide possible solutions.
- This is a forum to focus on policy issues, not site-specific issues.
- Please limit the use of and/or define acronyms as you use them.

C. Reggie Cheatham, Acting Director of EPA's Federal Facilities Restoration and Reuse Office

Mr. Cheatham thanked DOE and DOD for their active engagement in the process over the past many months. He noted that there have been many fruitful discussions among the agencies since the previous dialogue and that progress made will be shared with the group.

Mr. Cheatham stressed that at this point in the federal facilities program many sites are nearing or in the cleanup complete phase and that many remedies include stabilizing and leaving some waste on the cleanup site; therefore, the next big issue would be LTP. He

noted that there is already guidance available regarding LTP and that DOE and DOD are committed to enhancing what is already there. In order to ensure LTP, agencies need to document and prove that the remedy is working and protective of human health and the environment. This will likely include the use of ICs or land use controls (LUCs).

It is unclear during the LTP stage what public involvement is or should be. At a minimum there should be transparency and openness among all parties. He emphasized his desire to improve the timeliness, quality, and consistency of 5YRs. The 5YR documents whether or not the remedy is working. He noted that EPA is committed to exercising its authority to make sure sites are protective and that, if remedies fail, the responsible party may be subject to enforcement action. He also made it clear that he was cognizant of the current budget uncertainties and noted that this is not a new issue. Chapter 5 of the 1996 FFERDC report discusses and provides recommendations for funding and priority setting. He urged everyone to read this chapter.

D. Maureen Sullivan, Director Environmental Management, DOD's Office of Deputy Under Secretary of Defense (Installations and Environment)

Ms. Sullivan provided some funding statistics regarding the estimated DOD federal facility site cleanup program costs for FY 2011 (*see her presentation in Attachment B for additional details*):

- \$1,262 million spent on active sites.
- \$121.2 million on BRAC installations.
- \$276.6 million spent on formerly used defense sites (FUDS)⁴.

Ms. Sullivan anticipated that overall funding would be similar in fiscal year 2012, but that the amounts in the above categories would differ. As with all federal agencies, DOD will need to make a 10% cut in its budget.

Ms. Sullivan also presented DOD's newly established cleanup goals for active installations and FUDS. They are as follows:

- Achieve Response Complete at 90% of Installation Restoration Program sites and Military Munitions Response Program sites at active installations and Installation Restoration Program sites at FUDS properties by the end of Fiscal Year 2018.
- Achieve Response Complete at 95% of Installation Restoration Program sites and Military Munitions Response Program sites at active installations and Installation Restoration Program sites at FUDS properties by the end of Fiscal Year 2021.

Ms. Sullivan also provided statistics on the percentage of sites that have remedies in place or response complete:

- 86% of hazardous waste sites on active installations

⁴ A formerly used defense site is a military installation that was closed prior to October 17, 1986.

- 72% of hazardous waste sites on FUDS

Ms. Sullivan also discussed how DOD is trying to be more transparent by continuously communicating with states (directly or indirectly) about what the agency is doing, where they are in the budget process, and what their priorities are. Information is being put on the agency's Internet page, but she acknowledged that the site needs to improve. She asked the stakeholders how they wanted to receive information and what were the best mechanisms for providing information.

Ms. Sullivan noted that there were 265 Restoration Advisory Boards (RABs) associated with DOD sites, but that only \$70,000 in Technical Assistance Program (TAP) funds were granted in 2010. She asked the group how they could make people aware of the grants. She also posed the question: what should be the roles of advisory boards and stakeholder engagement in general after the response is complete?

E. Bill Levitan, Director of DOE's Office of Environmental Compliance within the Office of Environmental Management (EM)

Mr. Levitan stated that continuous process improvement is important to DOE, and that this dialogue meeting is a step in the process of continuous improvement. He indicated that DOE has done a lot of what FFERDC recommends regarding advisory boards, community outreach, priority setting, and EJ. He noted that there are three options once a DOE site has reached cleanup complete:

1. If the site was originally a privately owned site, it goes back to the owner.
2. If the site originally belonged to a DOE office with a continuing mission, then it goes back to that office.
3. If the site originally belonged to a DOE office that does not have a future mission, then the site goes to the Office of Legacy Management.

Mr. Levitan stated that EM requested \$6.1 billion in its fiscal year 2012 budget request, which has been marked by the House at \$5.6 billion and by the Senate at \$5.65 billion. Half of DOE's cleanup budget is for "hotel costs" (e.g., basic operations to keep nuclear materials safe). He noted that DOE decision-making is more appropriately termed risk *informed* rather than risk *based*, since DOE takes into account other factors such as community and state acceptance before making a decision.

DOE has been working on long-term stewardship (LTS), EJ, and advisory boards/community outreach. DOE takes pride in its advisory board and public involvement process and will continue to engage stakeholders within that framework. DOE sites vary in terms of contamination, geology, stakeholders, and relationships with regulators, so it does not use a "one size fits all" approach to cleanup.

DOE is very interested in streamlining the 5YR process because even EPA cannot seem to decide what a 5YR should look like. Mr. Levitan suggested that the 5YR should focus

on whether or not the remedy is protective of human health and the environment (i.e., does the science show protectiveness).

In conclusion, Mr. Levitan discussed transparency. He noted that DOE is about protectiveness and that decision making needs to be risk informed, involve everyone, and be transparent with sound science and engineering regarding decisions. He noted that DOE is responsible for taking action if a remedy fails or is not protective.

III. Ensuring Long Term Protection after Remedy Implementation/Cleanup

This discussion explored issues and ideas related to ensuring the long-term protectiveness of remedies, including the public's role and the use of LUCs.

A. Public's Role

Much of the discussion about the public's role concerned the function of RABs post-construction and communications between a federal facility and host community. Participants noted that at some sites community interest in RAB meetings or other forums diminishes after remedy implementation. Nevertheless, participants maintained the critical importance of regular and ongoing communications between federal facilities and communities to build and maintain relationships and share information essential for ensuring LTP. Individual suggestions for improving the public's role include:

- Develop a systematic approach to communicating about ensuring LTP. This could include Internet communications and an annual RAB reunion to share information and experiences between and among sites. There also needs to be a structure in place to provide for dissemination and discussion of information when new information or issues arise. (Raised by DOD stakeholder)
- End three-year term limit for RAB members where such limits exist. Groundwater decisions take years to determine and finalize; therefore, there needs to be continuity of membership. Limiting RAB member terms to three years leads to the loss of institutional knowledge. (Raised by DOD stakeholder)
- Reach out to younger generation who will eventually have responsibility to maintain ICs. (Raised by DOE stakeholder)
- Provide for an interactive information exchange between communities and federal facilities that is tailored to the specific community. The community should play a lead role in defining the appropriate type of interaction for their community. (Raised by DOD and DOE stakeholders)

B. Land Use Controls

LUCs include engineering controls and ICs. EPA has issued draft guidance on LUCs. The interim final document was issued November 2010, and EPA expects that the final guidance will be issued by the end of calendar year 2011.

Participants expressed a number of concerns related to the use of LUCs. These include:

- Maintaining ICs when sites are transferred and no longer under the control of the lead agency. Participants noted that ICs may not have been documented in a remedy document because they were determined late in the site cleanup decision process. (Raised by DOD stakeholders)
- Unresolved questions regarding who pays for the creation and maintenance of the IC registry and website, who supplies the data, and who QAs the data. There were also questions/concerns raised about whether the data should be controlled to ensure its quality and consistency or whether it can be broadly shared so that other entities can develop applications to allow the public to view the data. Stakeholders noted the difficulties associated with having to go to multiple agencies (and contractors) to obtain all LUC data and then try to interpret it. (Raised by DOE stakeholders)
- The difficulty of monitoring LUCs. Communities want to have a mechanism to provide feedback to the lead agency or other responsible party when LUCs do not work or need attention (e.g., a fence is down). (Raised by DOE stakeholders)
- Unresolved questions regarding whether deed restrictions work or if a human presence (e.g., guns and guards) is the only way to ensure LUCs and if responsibility for enforceability should be at the community level. (Raised by DOE stakeholder)

The participants offered the following suggestions for improving the use of LUCs:

- Map LUCs, but need to provide 100% coverage. LUCs should be addressed as a whole, not just under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Sites cleaned up or otherwise regulated by other programs also have LUCs (e.g., Brownfield sites, state oversight sites, Resource Conservation and Recovery Act (RCRA) sites). Therefore, all data for all LUCs in the community need to be provided; otherwise, environmental and human health may not be protected. This will require local, state (may be multiple state agencies), and federal regulators to cooperate. One solution could be the establishment of a state or local registry to help document LUCs. (Raised by DOD stakeholders)
- Open up data sources and allow developers to bring data to the public. Federal agencies must be more transparent about sharing IC data and providing the necessary context for interpreting and understanding IC data. (Raised by DOD and DOE stakeholders)
- IC information sources should be publicly available and should be communicated in appropriate ways relevant for the community. Use a variety of means (old and new) to communicate IC information, including setting up information kiosks in public places and using social media and mapping tools to inform the public about LUC use and location. It should not only include information about the physical location, but also about how long the LUC will be in place and why it is being used. (Raised by DOE stakeholders)

- Include LUCs in property records and in the Record of Decision (ROD), which the community can use it as an enforcement tool. (Raised by DOD stakeholder)

Participants offered the following examples for information sharing that might be adaptable for sharing LUC data:

- DOE funds a public data base for the RACER (Risk Analysis, Communication, Evaluation, and Reduction) application that is maintained by an independent organization. RACER was created to enhance the Los Alamos National Laboratory's (LANL) ability to effectively communicate data to the public in a uniform way. RACER provides web-based access to environmental measurement data collected by LANL and the New Mexico Environment Department. Its purpose is to provide a "transparent" view to the public. Nearly six million data records are available.
- In Colorado, the IC law is different from the national covenant. It covers all cleanup programs regardless of the agency. The mechanism for implementing ICs is controlled by the state, which requires that each agency have a registry of LUCs.
- EPA RadNet reports radiation data allowing the media and public to see the data. However, the state has to interpret it. The data needs to be accompanied by a simple statement such as "not a risk at these level" or something to qualify data and help public understand what the measurements mean.

IV. Resolving Site-Specific Issues

This discussion focused on mechanisms for addressing site-specific issues that community members feel are not being dealt with or sufficiently addressed at the site. Many participants expressed the need for a mechanism for dealing with site-specific conflicts between communities and federal agencies that were not being resolved at the site level.

- DOE perspective: DOE's Office of Public and Intergovernmental Accountability has an Ombudsman program to help resolve site-specific advisory board issues.
- DOD perspective: DOD encourages the local community members to resolve issues by contacting DOD at the local level and going up the chain as necessary. Sometimes communities contact congressional staff at the local level if they are not satisfied with the resolution. This system appears to be working well, but DOD welcomes input.
- A State government perspective: Often the state is asked by communities to intervene because community members do not have regulatory authority. This often works, but can be very inefficient.
- A Tribal perspective: May need a mechanism to raise concerns at the federal level to address local issues because of sovereign nation status. Tribes are concerned that when issues are elevated, the dispute goes behind closed doors where they are "resolved" without tribal participation.

In summary, the group thought that there were three main mechanisms for resolving issues outside of advisory boards:

- Through state and federal congressional staff;
- Asking for assistance from state regulatory agencies; and
- Through the lead agency's chain of command.

Using these mechanisms may not offer the community resolution; therefore, some recommended there needs to be mechanisms in place for the community to raise their concerns at a lower level without having to involve their congressional representatives or otherwise elevate the concern or escalate the dispute. When issues are raised up the chain of command or to a Congressional office, community input in the resolution often suffers.

In general, to help resolve issues quickly and effectively, participants urged federal agencies (DOD, DOE, and EPA) to be flexible and adopt a problem-solving orientation to look for ways to make something work rather than for reasons why something cannot be done.

V. Five-Year Reviews

This discussion explored issues and ideas related to the 5YR. The 5YR is a statutory requirement under CERCLA 121C and is a snap shot in time of whether or not the objectives have been met and if the remedial action continues to be protective. The 5YR is not meant to reopen debates made at the time of the ROD; however a 5YR could make a recommendation to reopen a ROD, but only if there is a protectiveness issue that cannot be achieved under the current ROD. Each operable unit (OU) should have a protectiveness statement and remedy. Sometimes multiple OUs can be included in one 5YR. EPA noted that the "clock" for the 5YR starts five years after remedial actions are initiated (e.g., on-site mobilization), and if a site has waste in place or restricted exposure, a 5YR needs to be conducted every 5 years to determine if the remedial action is protective and working as designed. If the remedial action is not protective, EPA can take enforcement action but would prefer to resolve the issue through collaboration rather than enforcement. Participants noted that they have used the 5YR in the following manner:

- To answer public's questions using the protectiveness statement;
- To track progress of the site or provide input to the lead agency;
- To plan what work needs to be conducted; and
- To use as one yardstick to tell the public where cleanup is at any given time.

A. Presentation by Monica McEaddy, EPA Federal Facilities Restoration and Reuse Office

Ms. McEaddy provided an overview of the 5YR process (*see accompanying slides in Attachment C*).

The critical information path begins with determining the objectives, identifying the issues (i.e., technical assessment), and developing a protectiveness statement (in the ROD). EPA wants to better incorporate this logical thread through the 5YR, which is not always present in the current reports.

Remedial Action Objectives (RAOs) are established in the ROD and should be one of the first considerations for the 5YR. However, when conducting a 5YR we need to check whether the assumptions made in the ROD are still valid and whether or not they continue to protect human health and the environment. RAOs are developed by analyzing the following:

- Risk drivers, such as media, chemicals of concern, pathways, and receptors;
- Current and future land use; and
- Purpose of the action (e.g., prevent, minimize, eliminate, or restore).

The following questions should be asked during the technical assessment and recommendations can be made based on the answers:

- Is the remedy working (i.e., is the remedy compliant and achieving goals)? In the 5YR, check for logic and completeness and compliance with the remedy and pathway specific ROD expectations.
- Have exposure assumptions changed? For example changes to maximum contaminant levels, adopted toxicity changes, emerging contaminants (e.g., arsenic, uranium, explosives isomers, 1,4-dioxane), or new exposure routes (e.g., vapor intrusion)?
- Is there anything else to consider (e.g., hurricane, earthquake, pending land use change)?

The following are the types of protectiveness statements that can be made in the 5YR:

- Protective (or will be protective);
- Protective in the short term;
- Not Protective;
- Protectiveness Deferred (because of the need for additional data);
- No statement issued where there's no ROD or no Remedial Action started; or
- No statement issued for unlimited use (UU)/unrestricted exposure(UE) OUs, unless it was not designated UU/UE in the last 5YR.

EPA looks for the following in 5YR (which are reviewed at Regional and Headquarters levels):

- Consistency with the ROD;
- RAOs, risk assessment, and constituents of concern (COCs) described;
- Completeness regarding RAOs;

- Progress since the last 5YR (recommendations tracked in CERCLIS)⁵;
- Information accuracy; and
- Interpretations that have been treated as facts.

The following stakeholder provisions (for public involvement) should be provided:

- Notify the public before and after the 5YR (e.g., at public meetings). This notification should include the contact information and where to find the report after it is completed. Stakeholders have a less formal role in the 5YR process (versus the more formal role stakeholders have in decision documents) to help prevent compromising statutory deadlines.
- Interview the public/stakeholders as needed or desired and include special view points and those that normally are not vocal. For example, check IC performance with local land use or construction permit agency.
- Access to the 5YR such as posting all 5YRs on the EPA website, including the 5YR in the site's information repository for the public to review.

Options for providing information include the site file, 5YR appendices, 5YR report body, executive summary, and fact sheets. How much information is enough? When is detail needed, and when is it better to cite a report or put the detail into an appendix? Is training in reviewing/interpreting 5YRs useful to the public or stakeholder groups?

Available resources include the following:

- RODs online <http://cfpub.epa.gov/superrods/index.cfm?fuseaction=main.search>
- 5YR web page <http://www.epa.gov/superfund/cleanup/postconstruction/5yr.htm>
- 5YR guidance <http://www.epa.gov/superfund/accomp/5year/index.htm>

The following are some of the questions for and input requested from the dialogue participants:

- What information does EPA look for in a 5YR?
- DOE was interested in what information States look for in a 5YR?
- What are reviewers' biggest concerns with 5YRs?
- What is going well with 5YRs?
- What are good alternatives to the information repositories?
- Do you have other thoughts concerning 5YRs?

B. Issues

The following issues were discussed:

⁵ CERCLIS (Comprehensive Environmental Response, Compensation and Liability Information System) (<http://www.epa.gov/superfund/sites/cursites/index.htm>) is a database maintained by the EP and contains information such as the current status of cleanup efforts, cleanup milestones reached, and amounts of liquid and solid media treated at sites on the National Priorities List (NPL) or under consideration for the NPL..

- There are multiple required reports (e.g., annual and bi-annual state reports as well as federally-required 5Yrs). All these reports can be confusing to the public. Unless the lead agency is consistently providing information and conducting a two-way dialogue with the community on a regular, consistent basis, it will be difficult to prepare the 5YR. This type of communication will also help prevent conflicts with the community when the 5YR is published. (Raised by DOE stakeholders)
- Reports are too long, making it difficult to determine what is being said in the report and what information is important. Key messages about remedy performance and protectiveness get lost in the document. (Raised by DOD and DOE stakeholders)
- Removal actions do not require a 5YR, but they can leave wastes in place. (DOD stakeholder)
- 5YR reports are important and are used in many different ways by stakeholders. However, some stakeholders feel that agencies are simply going through the motions to “check off the box.” (Raised by DOD stakeholders)
- Some stakeholders (e.g., Tribes) have issues with the risk assessment process (e.g., not convinced investigation, including sampling, is thorough enough to verify remedy is protective) and there are gaps in data availability to back up the determination. This can lead to distrust between stakeholders and contractors regarding results. (Raised by DOD and DOE stakeholders)

C. Ideas for Improvement

The following potential improvements for 5YRs were discussed:

- Distinguish between whether or not the remedy is likely to reach the RAOs versus whether the remedy is protective, as these are not necessarily the same thing. Identify what to do/will be done when it is difficult to meet RAOs. For example, if the RAO is the drinking water standard, complex groundwater sites will not be able to achieve the RAOs. There should be an analysis of groundwater concentration trends that may lead to adoption of a more effective technology. For this and other reasons, regulators should be open to re-characterizing the site (e.g., mass of soil removed). (Raised by DOD stakeholders)
- The Executive Summary for 5YR should not include acronyms or legalese and should be written in plain language the community (e.g., non-scientists) can understand. The summary should also have a paragraph that acknowledges the weaknesses and uncertainties of the remedy and a list of projects that might have diminishing returns (e.g., pump and treat). (Raised by DOE stakeholders)
- Currently, the 5YR review is seen as a report that has to be prepared and defends actions that have been taken. Therefore, information is collected and presented in

that context. The process should be more about inquiry and engagement as well as more forward looking (e.g., look at future use). More measurable milestones and timeline projections should be included (e.g., realistic meeting dates) and what needs to change to meet the time line. (Raised by DOD stakeholders)

- The report should indicate whether or not the lead federal agency included the state or community in developing the report as well as clearly defining community acceptance (see Attachment D for criteria on community acceptance as provided by Katherine Fuchs as well as written comments provided by Denice Taylor). Advisory boards and communities may not have the information or capacity necessary to comment or participate in 5YR. Therefore, training should be developed for advisory boards on how to review and use 5YRs. TAP grants have generally been used to help DOD communities during the investigation and arriving at a decision. A new EPA Technical Assistance Services for Communities (TASC)⁶ program provides a different type of support to help communities understand what the federal government is doing at the site. (Raised by DOD and DOE stakeholders)

VI. Interactive Information Exchange and Improved Communications

Because communication was addressed throughout the dialogue and was repeatedly stressed as being extremely important to the success of LTP and 5YR, this topic is provided separately. Overall, a general theme was that communication should not be a one-way street (i.e., just providing information and findings to the public) because the community does not like to attend meetings where they are “talked at.” It is important to involve the community directly and provide an interactive information exchange to help build trust and personal relationships between/among the lead agency, regulators and communities. Further, it is important to discuss the communication strategy with stakeholders and get buy-in from communities upfront regarding how information will be communicated to them. This will help in communicating with people in the way that they communicate, including different cultural formats as well as language;

The participants provided the following suggestions for providing interactive information exchange and improved communications:

- Create a speakers bureau;
- Provide interpretive centers for people to drop in and learn about the site;
- Include virtual tours on website;
- Generate environmental on-line mapping system where people can access information about a particular site;
- Use other meetings in addition to advisory board meetings (e.g., talk to service groups and attend city and town council meetings);
- Find out from the stakeholders how they want to receive communications;

⁶ Information on the TASC program can be found at <http://www.epa.gov/superfund/community/tasc/>

- Think about public values and relate issues at the site to those values, humanize the issues, and translate into a way that is more interesting to the public (e.g., fishing or swimming in lake). Find out what sparks the community and what will get them involved;
- Incorporate local institutions (e.g., high school, college) by having information available and working it into the curriculum. This includes getting teachers interested/involved and educating the younger members of the community, who will then educate their parents and who will actually be the ones dealing with these long-term issues; and
- Use social media (see additional information below).

Encourage direct interactions between the public and the site by bringing people onto the site is one way to provide interactive communication. These types of events draw a different demographic than those that typically attend community meetings. Several examples were provided:

- At a DOE site in Massachusetts, the community is involved by participating in a fishing derby. During this event the public is informed as to why they cannot eat the fish caught in the contaminated areas.
- The Fort Ord site holds a quarterly pizza party where 60-80 people attend.
- At Oak Ridge in Tennessee, a managed deer hunt is conducted. The deer are scanned for radiation, which educates the hunters about some of the site contamination issues.

Consider social media and electronic communication as mechanisms to provide interactive communication (e.g., You-Tube, Twitter, Facebook). On the plus side, these mechanisms reach different audiences than “traditional” media and can be used to notify many people quickly about milestones to keep them engaged (e.g., tweet that 5YR process is beginning and who to contact). Drawbacks include adopting a new culture and language, not everyone has access (e.g., 25% of people do not have e-mail), and some federal government agencies are not allowed to access Twitter and Facebook sites. The website <https://www.apps.gov/> provides information on applications available from the federal government. (See attachment E for information on communication apps provided by DOE.)

Additional suggestions for the use of social media and other electronic media to enhance interactive communications include the following:

- Social media and electronic sites need to be appealing to the public (i.e., “sex appeal”);
- Each cleanup site may need its own Twitter and Facebook account site to provide for two-way conversation;
- Websites could include a question and answer section and allow others to see the dialogue; and
- To cut communication costs, reports should be sent on electronic discs unless a hard copy is explicitly requested or required. Agencies should cull through distribution lists to eliminate duplications.

The use of social media and other electronic media has some special concerns and a request for an “idiots” guide on not what to do with social media was requested. The following additional issues/concerns were discussed:

- EPA counsel currently does not allow using links to other documents, but rather requires the full document to be incorporated into 5YRs or other required documentation. Because of this many documents are unwieldy resulting in additional costs and further intimidating the community members.
- Cleanups are complex and the information that is on the Web, Twitter, etc. may not be useful because it is too simplified or not on point. Having said this, a state stakeholder provided an interesting Twitter example of how to relate the remaining risk at Rocky Flats to the risks of eating two bananas a week.
- Most people working on cleanups are baby boomers and are not using Twitter, but they do use tools such as Google and other search engines to find information. Therefore, current technology (other than typical social media) can still be used, but it needs to be improved. Websites are often poorly organized, making it difficult for people to find information about their site to help them become engaged. Web pages need to be created so that the page will be found during a simple search.
- Because Congress would rather spend money on cleanup than travel, there will be more virtual meetings and communication. However, there is a concern about exchanges of information when advisory board members communicate via Facebook; it could be considered a “meeting” that would be subject to the Federal Advisory Committee Act and would require notice in the Federal Register. Once suggestion was to broadcast advisory board meetings on the Web using off the shelf technology so more people could participate (e.g., podcasts). However, it was noted that a webinar is a good tool but it does not solve all the problems: the most important time is 15 minutes before and 15 minutes after the meeting when relations are formed and people talk more freely; when people are on the record, they may not speak out as readily.

Continue to use traditional communications to reach people who are not in the digital age. This will require the regulators and responsible agencies to be more personally involved to recruit more community members (to distribute the information) and to get more young people involved. The following ideas using traditional communication mechanisms in unique ways were discussed:

- Go where the people are (knitting clubs, etc.) and use any opportunity to provide information (e.g., leave literature at doctor’s office and any public place where there is reading material and people are waiting);
- Although some thought hard copy literature is one of the least effective means of communication, all available forms of communication relevant to and effective for the community should be used;
- Documents provided to the public are generally too long. They should be tailored to focus on the data that really matter to the public.

VII. Updates from Federal Land Management Agencies

The October 2010 Dialogue meeting was two days in duration. The first day focused on DOD and DOE sites while the second day focused on U.S. Department of the Interior (DOI) and U.S. Department of Agriculture (USDA) sites. DOI and USDA provided brief updates on their activities.

A. Department of the Interior Update – Bill Lodder

(A more detailed account written by Mr. Lodder is provided in Attachment F.)

Mr. Lodder manages DOI's Central Hazardous Materials Fund (CHF), which is used to address environmental liabilities and cleanup sites that pose public health issues. DOI has five land management bureaus that manage 500 million acres of land with a range of sites (e.g., landfills, firing ranges, abandoned mines, mill sites).

The CHF receives ~\$10 million per year in appropriations for cleaning up all DOI sites, 45% of which is used to cleanup abandoned mine lands (AML) sites. Additional funding (~\$6 million) is available from cost recovery/cost avoidance from responsible parties. DOI is allowed to reuse these cost recovery funds within the Department to cleanup additional sites.

A large focus of DOI's cleanup program is on AML sites, which may have heavy metal tailings, explosives, and other contaminants. DOI sites are addressed at the bureau level. Each bureau prioritizes its sites and uses the available funding to address those with the highest priority first. The Abandoned Mine Land fund managed by the Bureau of Land Management (BLM) prioritizes sites with physical safety hazards (e.g., open shafts or adits) and sites that pose the greatest risk to water quality. Because DOI is decentralized, it is difficult to get state/regional offices to focus on DOI-wide issues.

One of the hurdles to cleaning up AML sites is simply inventorying all of them because land records are in county offices and no one agency is responsible for AMLs. The U.S. Park Service and the Bureau of Land Management (BLM) are conducting inventories to try to identify all DOI AML sites. Once inventoried, the sites will then be evaluated, and resources will be focused on those with the greatest risk. The first priority is to collect data on physical safety hazards and rank them for resolution. The next priority for the bureaus is to evaluate environmental risks. BLM has worked with seven other federal agencies to develop and maintain the AML Portal. This portal provides information on the hazards and risks associated with abandoned mines. This includes the type of mines (hardrock, coal, and uranium), extent of the problem, and how to stay safe. The AML portal is a comprehensive site to help answer the public's questions and provide a map of AML sites; it has been available to the public for several years.

A second complication to addressing AML sites is the laws governing "re-mining." Under the current mining law, someone can re-mine the repository, possibly causing harm to human health and the environment. The federal government cannot "damage"

the current claimant site, even if the site is a contaminated AML site. BLM is working with the claimants to re-mine tailings in such a way that does not pose a risk to human health or the environment.

BLM, EPA, and DOE are currently looking into generating renewable energy at AML sites by using existing transmission lines without building much new infrastructure. Several sites are being proposed for wind and photovoltaic energy projects that will generate critical clean energy for public use.

B. Department of Agriculture Update – Holly Fliniau

USDA manages 193 million acres, including the Forest Service, which has the largest portion of cleanup sites, mostly AML sites. USDA only has one National Priorities List site, which is the Agricultural Research Service site in Beltsville, MD; however, it also has about 38,000 AML sites, 150 carbon tetrachloride sites, and Animal and Plant Health Inspection Services dip vat sites. USDA's Environmental Management Division is responsible for policy issues related to CERCLA and RCRA and provides technical assistance and funding.

The USDA FY2012 budget for the CERCLA cleanup program is \$3.5 million, which is mainly used for salaries and other direct costs – leaving \$1 million available for actual cleanup. Most of the funding provided to the Forest Service is being used for operation and maintenance.

C. Federal Mining Dialogue

The Federal Mining Dialogue (FMD) was discussed by both the DOI and USDA speakers; therefore, the topic is addressed separately with comments from both agencies combined.

DOI and USDA both participate in the Federal Mining Dialogue (FMD), which is composed of various federal agencies (EPA, Department of Labor, etc.) related to mining. External stakeholders are not included. The FMD meets on a quarterly basis and provides a structure for agencies to share information on best management practices, future studies, and develop guidance that cuts across the Federal government. One example is a proposed Communications and Collaboration Strategy. This strategy would allow regional regulators to sit down and review AML priorities so that Federal land managing agencies can focus resources on sites of joint concern to EPA and states. It also recommends for senior executive leaders from the agencies to meet once a year to set priorities for the dialogue group. FMD also is developing an informational paper about how each agency creates its inventory of sites and the current status. The report will include how each agency identifies, prioritizes, and funds its cleanup sites. One participant noted that the inventory must have information about the issues associated with each site and be available to the public.

In response to DOI's and USDA's updates, state agency participants raised a couple of concerns:

- One state participant contended that states feel they have no avenue to work with DOI or USDA. States could help DOI and USDA obtain funding from Congress but do not have the incentive to do so because of ongoing communication issues between state and federal agencies. States can address issues when state agencies meet with federal agencies periodically, but states do not want the federal government telling them what to do.
- Another state participant asserted that federal land management agencies refuse to impose LUCs that would help ensure public protectiveness.

Mr. Lodder and Ms. Fliniau reported that FMD may have a video conference that will include states as well as other federal agencies, which should help facilitate conversations between state and federal agencies.

VIII. Environmental Justice

Carlos Evans and Charles Lee from the EPA Office of Environmental Justice provided an overview of the recently signed interagency *Memorandum of Understanding on Environmental Justice and Executive Order 12898* (EJ MOU) and the recently released *EPA Plan EJ 2014*. Both noted that EJ is a priority for EPA Administrator Jackson.

A. Interagency Memorandum of Understanding on Environmental Justice – Carlos Evans

The EJ MOU was developed by an interagency workgroup (IWG) and formally provides commitments from 17 agencies and the White House. The MOU promotes community engagement in agency decision processes and requires the following:

- Every agency must develop a draft EJ strategy and release it for comment by September 2011. The report must be finalized by February 2012.
- Each agency must develop EJ measures for which they are accountable.
- IWG must meet monthly and at least once per year with stakeholders.

Agency EJ strategy focus should be on the four following areas noted in the MOU:

- National Environmental Policy Act (NEPA);
- Title VI of the Civil Rights Act of 1965;
- Climate change (minority populations are likely to be disproportionately impacted); and
- Goods movement (i.e., areas where there are a large number of trucks, trains, airports, etc.) in EJ areas.

EPA's EJ Strategy: EPA's EJ Strategy has been available in draft form for public review since the summer of 2010 and was recently finalized as *Plan EJ 2014* (described below).

DOD's EJ Strategy: DOD's EJ Strategy is in place, and DOD will not be developing a new draft strategy but will be enhancing the current policy. Other programs and activities conducted by DOD related to EJ include a 15-year community advisory and education project that partners EPA, contractors, college's etc. to help connect the community with experts and resources in their area (e.g., colleges). DOD also has programs where DOD personnel talk with the community to become informed about the public's issues and problems regarding a site.

The EJ strategy is different from DOD's Native American strategy, which focuses more on government-to-government. In addition, DOD is consulting with tribes and training DOD personnel how to consult with tribes. In addition, DOD administers the Native American Lands Environmental Mitigation Program (NALEMP)⁷.

DOE's EJ Strategy: The DOE strategy is posted. It is based on Executive Order 12898, so it may not be specific to federal facilities. DOE has programs (e.g., the Community Advisory and Education Project) to connect communities with experts and resources in their area. EJ issues are being dealt with at the highest level within DOE to ensure that EJ is taken into account not only in the context of CERCLA cleanup processes but also during NEPA processes. DOE is responsible for managing, treating, and disposing of highly radioactive waste, which is informed by the NEPA process. DOE strives to ensure EJ is taken into account from the scoping process through the Environmental Impact Statement process.

In response to federal agency EJ strategy updates, stakeholders stated that the following issues that need to be considered even if not included in an agency's strategy:

- Most issues that affect tribes are EJ issues; therefore tribes (and other communities) need to be involved earlier in the process. For example, source material for landfills is often taken from traditional tribal cultural property even though the NEPA report indicates that there is no impact to the community. This issue should have been noted during scoping. If Tribes were involved earlier in the process this issue may have been avoided. (Raised by DOD and DOE stakeholders)
- Not currently included in the EJ process is an evaluation of if and how the community has the capacity to bear risk and the resiliency of the community to deal with the risk.

⁷ In recognition of the need to address tribal concerns in DOD environmental programs, Congress has, since 1993, inserted a provision in the DoD Appropriations Act requiring the DOD to devote funds annually to mitigate environmental impacts to Indian lands and Alaskan Native Claims Settlement Act (ANCSA)-conveyed properties (see <http://www.denix.osd.mil/na/Programs/DoDProgramsUnderSeniorTribalLiaison/NALEMP.cfm> for additional information).

This analysis should be included as part of the impact statement. (Raised by DOD stakeholder)

- People in EJ communities often do not have the time to participate in the process. Therefore, Agency and federal facility personnel need to be educated on how to communicate with EJ communities and different cultures. To integrate EJ issues holistically into the entire process they need to engage people realistically including the economics associated with the entire process and work with local/state government. (Raised by DOD stakeholders)
- Although EJ is not included in the Superfund remedy selection criteria, EJ issues can be address during the Superfund process by taking into account EJ community exposures during the risk assessment and identifying future use that is more engaging of the EJ community. (Raised by DOD stakeholders)

B. EPA Plan EJ 2014 – Charles Lee, Deputy Associate Administrator for Environmental Justice⁸

The entire agency – not just one office – is changing the way it incorporates EJ into its mission. EPA’s Plan EJ 2014 will be a roadmap for integrating EJ into all EPA programs, including the strategy, deliverables, and goals. Every office and region has taken a different leadership role.

Each year EPA will issue a report on how well it has protected the environment of overburden communities, empowered them, and worked with other agencies to help revitalize communities by developing sustainable communities that are economically vibrant.

EPA’ strategy has three major elements:

- 1) **Cross agency focus** areas, including rulemaking, permitting, enforcement, programs, and interagency work, will require major policy work and leadership.
- 2) **Tools development** for science, legal, and information sharing applications; for example a geospatial platform and consistent way to identify EJ concerns).
- 3) **Program-specific initiatives** to pursue environmental justice goals or produce benefits for overburdened communities. Examples include the Community Engagement Initiative (Office of Solid Waste and Emergency Response), Urban Waters (Office of Water), National Enforcement Initiatives (Office of Enforcement and Compliance Assurance), Air Toxics Rules (Office of Air and Radiation), and the U.S. Mexico Border Program (Office of International and Tribal Affairs).

Other aspects of the strategy include the following:

- Identifying programs that can serve as models for integrating EJ;
- Ensuring actual results in communities on the ground;

⁸ Mr. Lee filled in for Lisa Garcia, Senior Advisor to the Administrator for Environmental Justice.

- Creating connections between community-based work, science and agency work – for example by developing trans-disciplinary research programs and building capacity of the community and agency;
- Engaging multiple stakeholders – for example by conducting a number of outreach and listening sessions regarding the permitting plan and developing a formal process for tribal consultation (including planned October webinars with tribes and indigenous groups); and
- Reinforcing, reinvesting in, and revitalizing EJ communities.

IX. Closing Remarks

A. EPA Closing Comments by Mathy Stanislaus

Mr. Stanislaus thanked everyone for taking the time to attend this important meeting and asked everyone to commit to taking incremental tangible actions as soon as possible (i.e., in the short term) to address identified issues. He noted that additional items will be raised as the agencies move forward.

EPA will do its part by making the meeting summary available in about a month. EPA will then meet with DOD and DOE to determine what actions to take and develop milestones. EPA will also work on making the 5YR process more rigorous and addressing long-term protectiveness issues. The interagency workgroup, which includes representatives from EPA, DOE and DOD, will use the information provided during the meeting to improve the 5YR process. The workgroup also is addressing (or has already addressed) the eight recommendations included in the June 2010 Inspector General (IG) report on 5YRs. Two issues in the IG reported included late 5YRs (i.e., past the 5 year timeframe) and the need for better monitoring, tracking and implementing recommendations, which is being addressed through improved management controls. The workgroup needs input from stakeholders before moving forward on any of the ideas generated during this dialogue.

Mr. Stanislaus acknowledged budget constraints at all levels while still needing to make risk-plus based decisions. He encouraged everyone to read Chapter 5 of the FFERDC document and use this chapter as an initial framework on how to make risk-plus based decisions and incorporate long-term protectiveness and EJ in this budget conscious environment.

B. DOE Closing Remarks by Bill Levitan

Mr. Levitan emphasized that DOE and the other federal agencies represented are committed to continuous process improvement. He noted that this meeting provided a great deal of good information, but also encouraged everyone to continue to share lessons learned to meet the common goal of protecting the environment and health. Regarding information sharing and communication, he made the following points:

- DOE's Office of Environmental Management is trying to emulate the Office of Legacy Management regarding a GIS mapping web site;
- Although there may be tension between national policy and local issues, he urged the use of advisory boards to settle site specific issues; and
- He reiterated that the 5YR process is an ongoing process and not just a report. However, the process needs to be streamlined to let stakeholders know what is happening, what they can do, what the data mean, and if the remedy is being protective, but the process should not get in the way of on-the-ground progress.

Because funding is likely not going to be available to address all commitments, difficult decisions will need to be made. This can be done by ranking priorities. Once priorities are ranked, what gets cleaned up is determined by how much funding Congress provides.

C. DOD Closing Remarks by Maureen Sullivan

Ms. Sullivan thanked everyone for a productive 1.5 days and noted that many good ideas were provided to answer her opening remarks questions: "What are the best outreach and communication mechanisms and the best ways to receive information and have an engagement process?" The responses to this question show that there are many opportunities for community engagement that have not been explored fully. DOD is reviewing the guidance provided to advisory boards to determine what is being conveyed and what tools are being providing.

Regarding EJ and tribal issues, she asked the group to think about tools for communication and how are we dealing with risk. We need to make full use of communication tools; however, the community is self-determined about what is the best tool for them – i.e., federal agencies need to make the tools available, but the community decides on the tools they actually use.

D. Closing Remarks by Reggie Cheatham

Mr. Cheatham closed the meeting by thanking all the participants for their contributions and summarizing next steps.

- The 5YR Workgroup will continue to work together to improve the timeliness, quality, and consistency of 5YR. One question the workgroup is wrestling with is how much information is enough/too much and how to provide 5YR information to the public (e.g., fact sheets, executive summaries). The workgroup is looking for input from stakeholders before moving forward with specific ideas. EPA will provide information on where additional comments on improving the 5YR process can be sent.
- A draft summary of the meeting will be provided for review in approximately one month.
- A proposed action plan for next steps will be distributed around the time the final meeting summary is distributed.

Attachment A

Federal Facility Cleanup Dialogue Meeting September 21 & 22, 2011

EPA Potomac Yard - South
2777 Crystal Drive
Arlington, 22202

Wednesday, September 21

- 1:30 p.m. Introductions
- 1:40 p.m. Welcome and Opening Comments, Mathy Stanislaus, Assistant Administrator, EPA Office of Solid Waste and Emergency Response
- 1:50 p.m. Meeting Goals, Agenda Review, Ground Rules, and Possible Meeting Outcomes

Meeting Goals:

1. Provide updates regarding activities since the 2010 Federal Facility Cleanup Dialogue meeting.
2. Identify potential next steps to issues raised at the October 2010 Dialogue meeting regarding long-term protectiveness, resolving site-specific issues, information sharing mechanisms, and environmental justice.
3. Solicit individual input on proposed federal agency changes to Five-Year Reviews.

Possible Outcomes of this Meeting:

1. A meeting summary shared in draft with this group.
2. DOD, DOE, and EPA incorporating input into their agency decision-making, as appropriate.
3. DOE considering the input and discussing further with their stakeholder groups (e.g., EM SSAB, STGWG, etc), as needed.
4. DOD and EPA considering the input and discussing further with DOD and EPA stakeholders of this group and others, as needed. Possible mechanisms include conference calls or webinars.
5. Neither a FACA process nor in-person meetings are anticipated as likely follow-up actions.

- 2:00 p.m. How Did We Get Here/Where Are We Going?
- Reggie Cheatham, Acting Director, EPA Federal Facilities Restoration and Reuse Office
 - Maureen Sullivan, Director of Environmental Management, Office of the Deputy Under Secretary of Defense
 - Bill Levitan, Director of Compliance, Office of Environmental Management, DOE

Attachment A

- 2:30 p.m. Group Discussion: Ensuring Long-Term Protectiveness after Remedy Implementation/Cleanup and/or Construction Completion
- The public role after construction: Stakeholder experiences at sites where such implementation or completion has occurred. Suggestions for the public's role in long-term protectiveness.
 - Institutional controls: What ICs have high stakeholder confidence? Are there other ways to instill confidence?
 - Are there best practice approaches to ensure long-term protectiveness when property ownership is transferred?
- 3:30 p.m. Break
- 3:45 p.m. Methods for Resolving Site-Specific Issues
- When there is a disagreement at the site-level between community stakeholders and DOE, DOD, or EPA, what type of method is used to resolve the dispute? Does this system work well? Ideas for improvement?
- 4:45 p.m. Look Ahead to Day 2
- 5:00 p.m. Adjourn
- 5:30 p.m. Group Dinner

Thursday, September 22

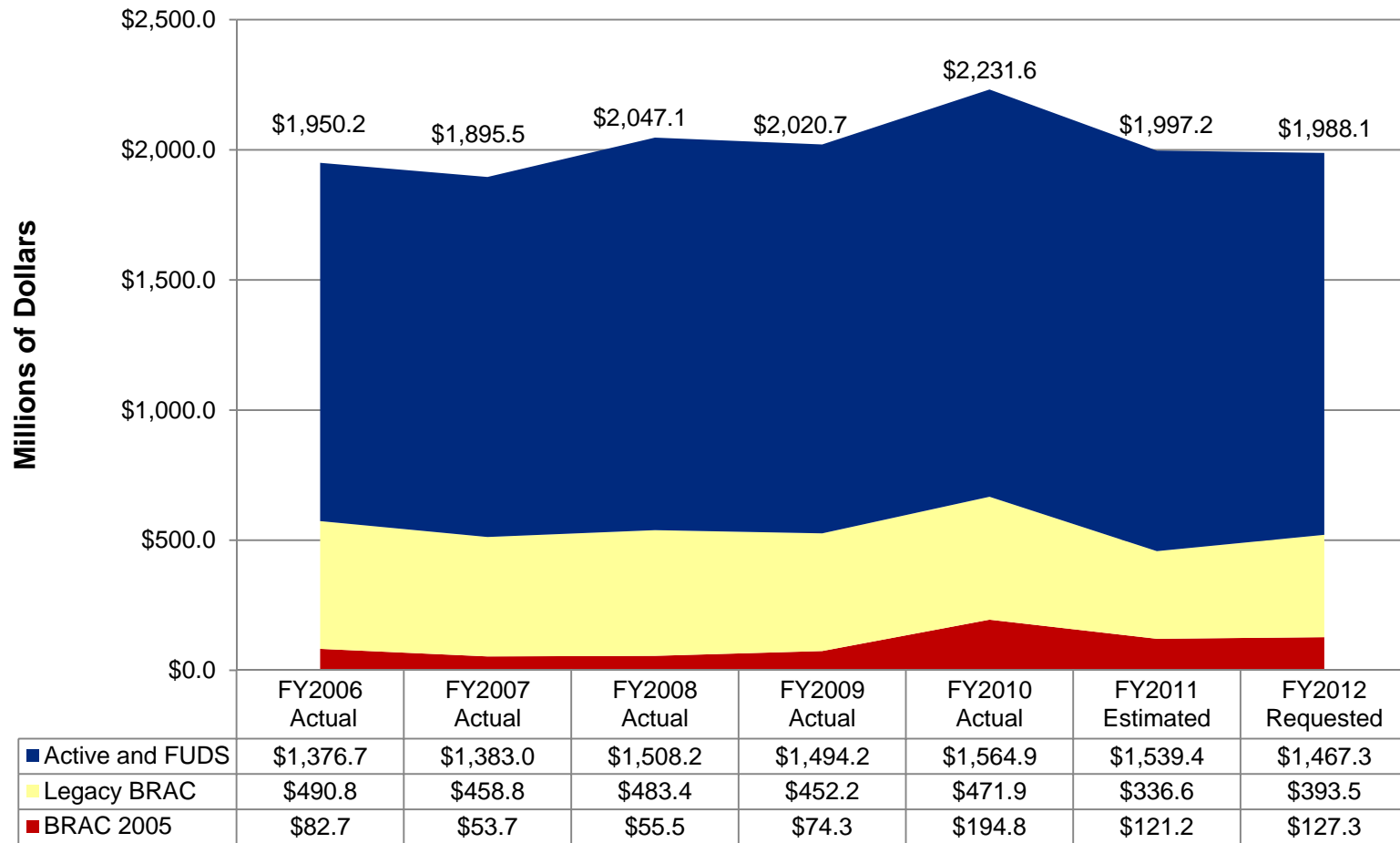
- 8:30 a.m. Informal Gathering/Coffee
- 9:00 a.m. Opening Remarks
- 9:05 a.m. Five-Year Reviews, Monica McEaddy, EPA Federal Facilities Restoration and Reuse Office
- What are Five-Year Reviews?
 - Why might external stakeholders care about Five-Year Reviews?
 - Seeking Stakeholder input on:
 - Is the Five-Year Review process clear to external stakeholders? If not, is an educational process needed?
 - What information is most important to you in a Five-Year Review?
 - When do you want to see it?
 - What would be the best delivery mechanism?
 - Thoughts on workgroup's direction to date?
- 10:45 Break

Attachment A

- 11:00 Brief Updates from Federal Land Management Agencies
- Bill Lodder, Department of the Interior
 - Holly Fliniau, Department of Agriculture
- 11:45 Group Discussion: Suggestions for Sharing Information and Community Engagement over the Long Haul
- Identify information sharing approaches that are successful.
 - Identify possible new information sharing approaches.
- 12:30 Working Lunch and Discussion on Environmental Justice
- Carlos Evans, EPA Office of Environmental Justice
 - Interagency Memorandum of Understanding on Environmental Justice
 - Development of Environmental Justice Strategies
 - Group Discussion: What should the linkages be between the MOU, EJ Plan 2014 and Federal Facility Cleanup Programs
- 2:45 p.m. Break
- 3:00 p.m. Discussion and Summary of Next Steps
- Proposed Federal Actions – Mathy Stanislaus
 - Proposed Individual Agency Actions
 - DOE—Bill Levitan
 - DOD—Maureen Sullivan
 - EPA—Reggie Cheatham
 - Discussion
- 3:45 p.m. Closing Comments by Mathy Stanislaus
- 4:00 p.m. Adjourn



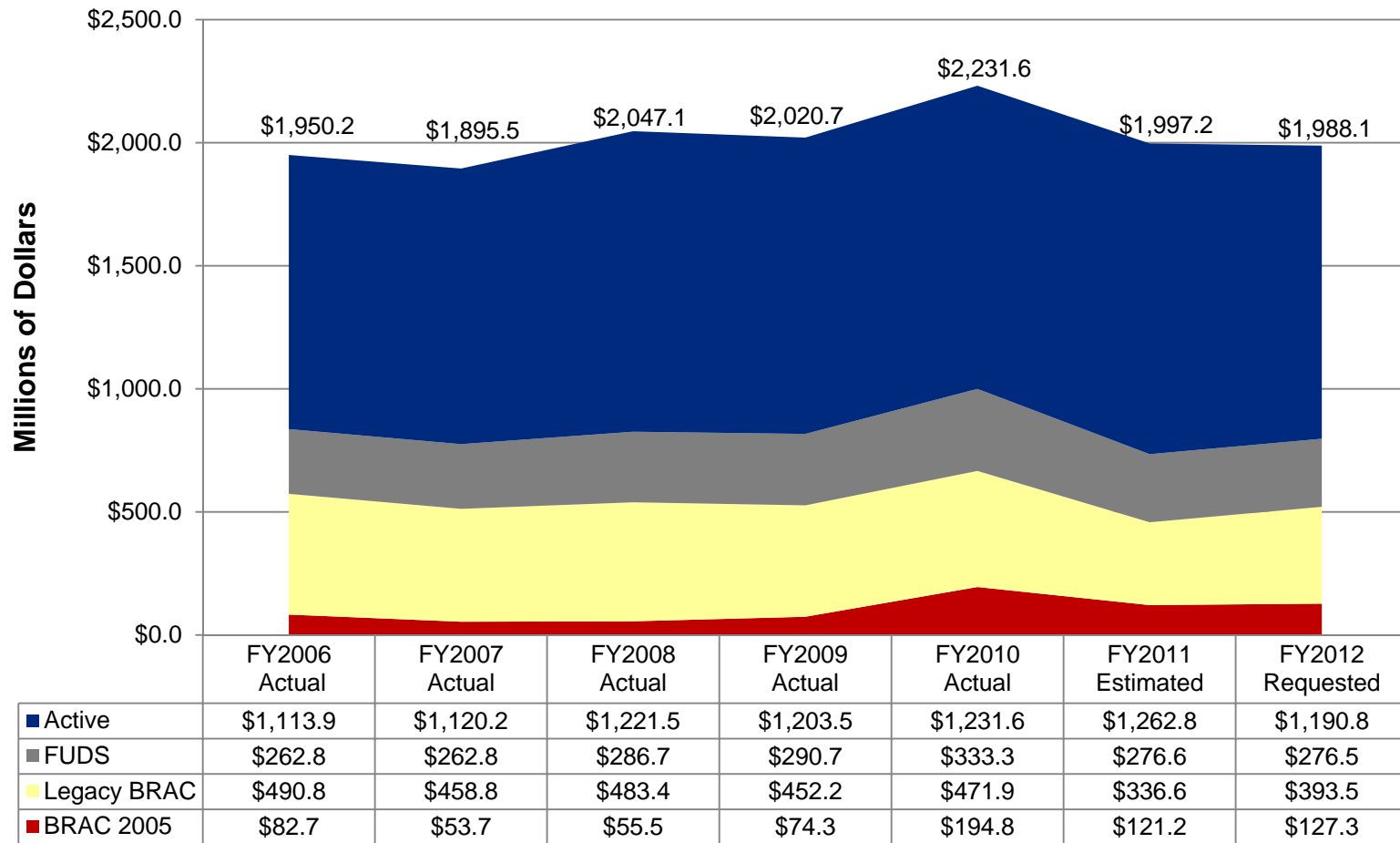
DoD Cleanup Funding



* Due to rounding, subtotals may not equal fiscal year totals



DoD Cleanup Funding



* Due to rounding, subtotals may not equal fiscal year totals

Five-Year Reviews

FFCD



Sept 22, 2011

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U.S. Environmental Protection Agency

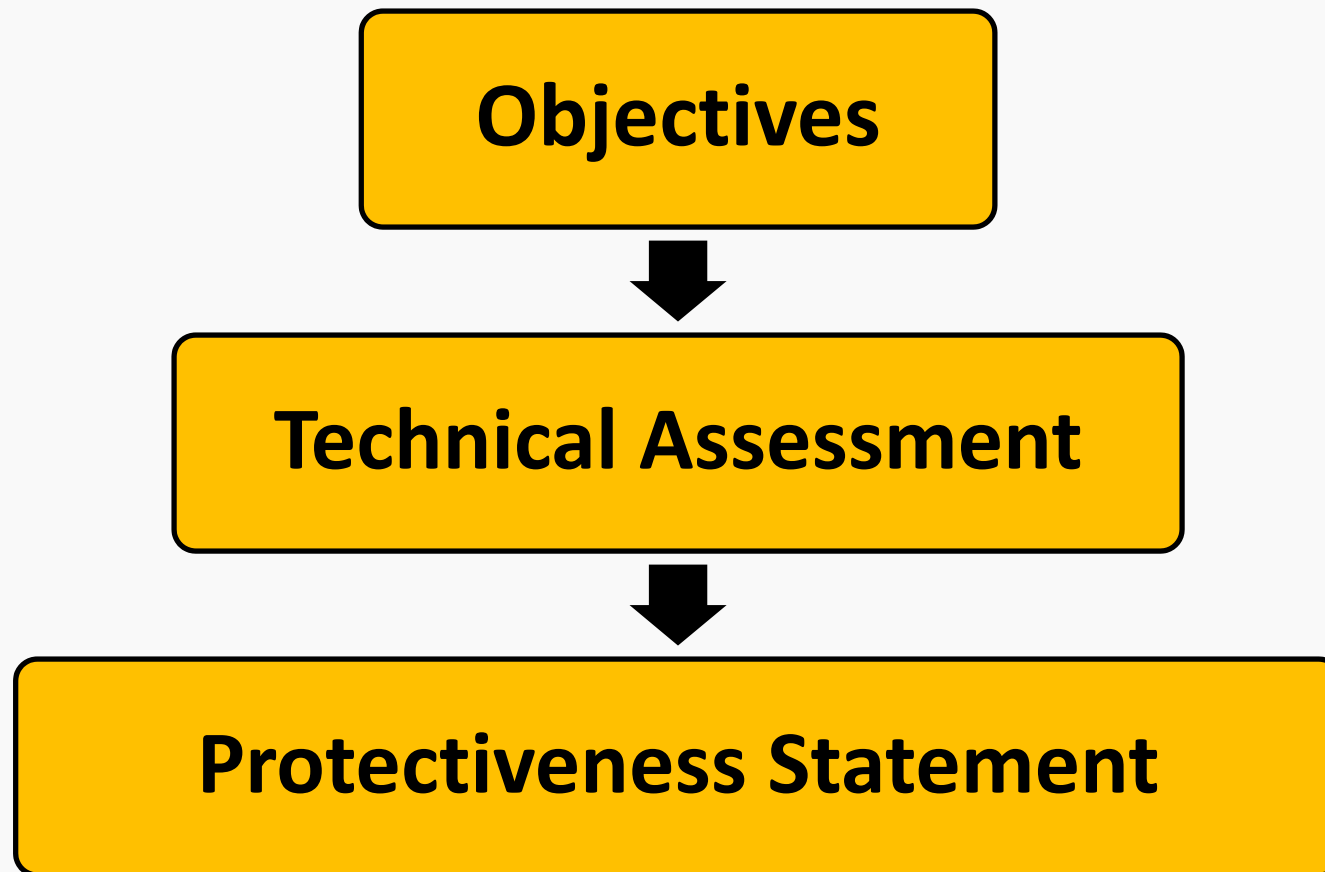


Purpose of Today's Discussion

- Present major Goals of Five-Year Reviews
- EPA's review
- Stakeholder Role
- Available resources
- Get feedback from Stakeholders on Five-Year Reviews

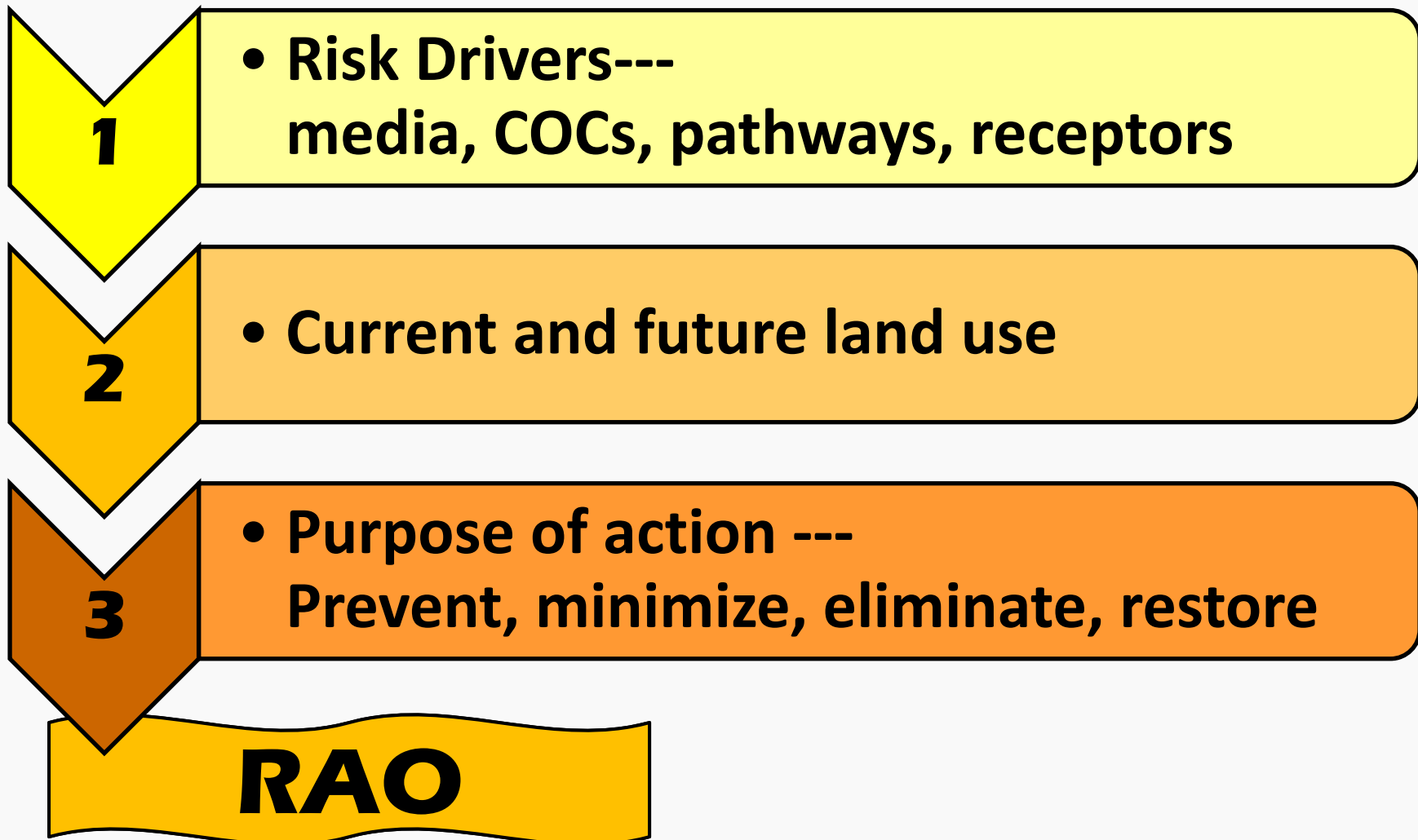


Critical Information Path





Remedial Action Objectives





Technical Assessment: The ABCs

Question A: Is the remedy working?

Question B: Have exposure assumptions changed?

Question C: Is there anything else to consider?



Protectiveness Statements

- **Protective** (or will be protective)
- **Protective in the short term**
- **Not Protective**
- **Protectiveness Deferred**
- **No statement issued where there's no ROD, or no RA start**
- **No statement issued for unlimited use (UU)/unrestricted exposure(UE) OUs, unless it was not UU/UE in the last 5YR**



What EPA Looks for in a Review

Consistency with the RODs

RAOs, RAs, & COCs described

Completeness regarding Objectives

“Progress Since the Last five-year” info for CERCLIS

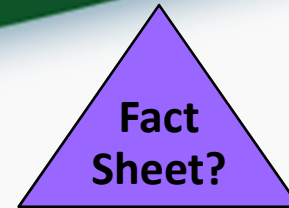
Accuracy of information

Interpretations which have been treated as facts



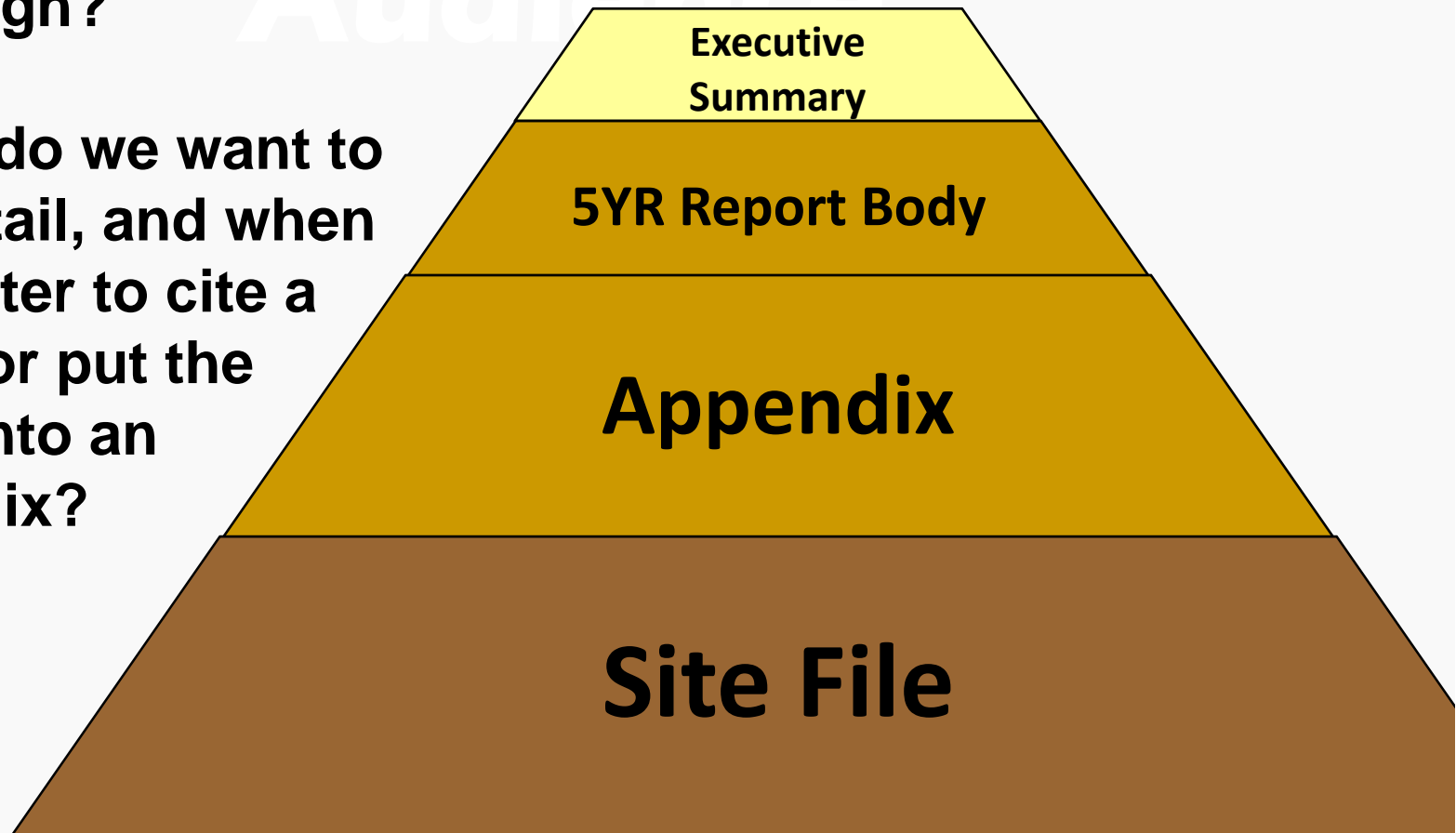
Stakeholder Provisions

- **Notifications req'd before & after five-year**
 - include contact info on the notice
 - include where to find the report after
- **Interviews as needed or desired**
 - Include special viewpoints
 - Include people not normally heard from
- **Web sites**
- **Info repositories**



•How much information is enough?

•When do we want to add detail, and when is it better to cite a report or put the detail into an appendix?





Resources

RODs online

[http://cfpub.epa.gov/superrods/index.cfm?
fuseaction=main.search](http://cfpub.epa.gov/superrods/index.cfm?fuseaction=main.search)

5YR web page

[http://www.epa.gov/superfund/cleanup/p
ostconstruction/5yr.htm](http://www.epa.gov/superfund/cleanup/postconstruction/5yr.htm)

5YR guidance

[http://www.epa.gov/superfund/accomp/5y
ear/index.htm](http://www.epa.gov/superfund/accomp/5year/index.htm)



Questions

- **What info do you look for in a 5YR?**
- **What info do States look for in a 5YR**
- **What are your biggest concerns with 5YRs?**
- **What is going well with 5YRs?**
- **What are good alternatives to the info repositories?**
- **Do you have other thoughts re: 5YRs?**

Attachment D

Detailed Suggestions on Improving CERCLA Five-Year Reviews Provided by Katherine Fuchs, Alliance for Nuclear Accountability

While we were discussing ideas to improve community understanding of / participation in the CERCLA five year review process, I mentioned that one of my constituent groups in Livermore, CA had a few specific suggestions. The following suggestions come from Tri-Valley CAREs and I would be happy to connect you to them if you have any follow-up questions.

1) Improving Performance Reporting

In almost all Superfund cleanup projects, commitments and milestones concerning the cleanup performance (e.g. timing of cleanup, how much contaminant will be removed) are disregarded in Records of Decision (ROD). Most RODs list a series of documents that must be completed and an estimate of time to cleanup the site, with no indication of the expected rate of actual progress along the way.

We suggest that the Proposed Plans, RODs, and subsequent Five-Year Reviews contain both a measurable schedule and performance milestones with which the community can gauge progress. Too often, communities are told that cleanup will take 50 to 100 years, without any tangible way to gauge interim progress along the way against the end-date estimated in the ROD.

Performance metrics that we suggest include measureable schedules of time expected to contain plumes, time expected to reduce the mass that contributes to the contamination of the soil, groundwater and indoor air, and the time expected to achieve regulatory milestones such as achievement of MCLs.

We suggest that each site spell out the mass in the soil and groundwater and lay out a conservative timetable of performance milestones. These can be updated by the site, as appropriate and as more information becomes available, e.g., through additional site characterization. This timetable would then be used to monitor the performance of cleanup, and provide interested parties with an idea how cleanup is progressing, and will progress.

We regard the lack of performance milestones as a fundamental problem with the government's approach to CERCLA enforcement.

Furthermore, in the Five-Year Review, we suggest there should be a comparison between expected results and observed performance. We understand that these milestones may be controversial to establish, as PRPs are often resistant to estimating mass removal rates, and generally do not like to be held to performance indicators. To get past this barrier, it should be made clear that the performance milestones that we are requesting are estimates to keep the community informed of progress. It is our hope that PRPs, and their Superfund documents, be better able to inform the community of success and/or an early warning of the need for adaptation of the remedy.

We note that this can aid the overall Superfund cleanup, as engaged communities and other interested parties can, as appropriate, advocate for actions that will benefit the cleanup and ensure that it stays on track to a positive outcome.

2) Helping communities better understand what Community Acceptance really means

One of the nine EPA criteria for evaluation of the cleanup strategy is community acceptability. In our experience, we have not seen a methodological evaluation of community acceptance, and it is difficult for regulators or the PRPs to explain what it means and how community support or resistance may alter projects.

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Regarding the LLNL main site and Site 300 Superfund cleanups, our organization held meetings in the surrounding communities and drafted a consensus list of criteria as an acceptable framework for cleanup. These criteria are broad, and they are evolving as additional community views come to our attention.

Below are examples of the consensus Community Acceptance Criteria that Tri-Valley CAREs drafted. The specific example used is the LLNL Site 300 Superfund cleanup. The examples are generalized here as much as possible for the purpose of a national strategy comment, but some site-specific information is retained for better readability and comprehension of the underlying principle involved in the comment.

- Complete the cleanup project in a timely manner. Set a schedule for cleanup activities and adhere to it. The goal should be to complete cleanup ten years after the DOE's last scheduled ROD, with up to the year 30 years after for monitoring of residual contamination.
- PRPs must be held accountable for contamination and cleanup agreements that it has entered into with the State of California and EPA and these should not be altered. Federal Facility Agreements (FFA) that DOE has signed are binding documents. They are the only mechanisms which surrounding communities, local governments, and the states can hold DOE accountable for cleanup. If alterations are made in the FFA schedule, the committed levels of cleanup must remain the same, and the community should be informed
- Cleanup levels should support multiple use of the property that is unrestricted by environmental contamination. Only in very specific circumstances should a site be assumed to be forever restricted. Any modeling assumptions should assume residential communities relying on the regional aquifer for drinking water. Second, we do not believe that DOE sites will always remain in DOE's stewardship. The "need" for developing nuclear weapons and testing components is a political decision, not a technically necessary mandate. We recommend that these areas be assumed to have multiple uses including mixed residential, recreational, ecological preserve and industrial land uses.
- Cleanup levels should be set to the strictest state and federal government levels. We believe that the strictest cleanup levels should be met in cleaning up the site. Federal and state Maximum Contaminant Levels (MCLs) for all groundwater (on-site and off-site) should be the "bottom line below which the cleanup will not fall." In many cases the technology exists (and/or can be developed) that will clean up contamination to "background" or near background levels. At a minimum, the standard of 1 in 1 million excess cancer deaths should be adhered to, as well as meeting a hazard index of less than 1 (non-cancer health effects).
- Remedies that actively destroy contaminants are preferable. In order of preference, Tri-Valley CAREs recommends the following types of cleanup measures: a) remedies that destroy contaminants (i.e. by breaking them down into non hazardous constituents), such as by ultra-violet light/hydrogen peroxide, permeable barriers, or biodegradation; b) active remedies that safely treat or remove contaminants from the contaminated media; c) monitored natural attenuation in so far as it relies on natural degradation (and not further dispersion of the pollution) within a reasonable time frame. What is called "risk and hazard management" (i.e., restrictions on land use, fencing, signs and institutional controls), while potentially useful for reducing short-term risks, is not a valid cleanup in our eyes and should only be used as an interim measure. In no case do we think that "point of use cleanup" (e.g., placing filters on off-site drinking water wells) is appropriate. In all cases, hydraulic control should be established to halt migration of contaminant plumes to pristine waters. When soil excavation takes place, it should be properly controlled to minimize releases of contaminated soil into the air, and onto adjacent properties.

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- Decisions should not rely on modeling alone. The Site-Wide Feasibility Study points out just how complex the hydrogeology of the site is, and how little is known about it. Given this, Tri-Valley CAREs believes that over reliance on modeling to predict the fate and transport of contaminants is not a good idea. Computer modeling should be used as a tool only, and continually updated by field-testing as that information becomes available. We believe that if it becomes necessary to base a decision primarily on modeling, the most conservative assumptions should be used.
- A contingency plan should be completed and subject to public review prior to the signing of a ROD. Tri-Valley CAREs recommends that a site-wide contingency plan be part of this document or part of the draft Remedial Action Plan. This is needed because the cleanup of a few sites are put off until the future, there are many uncertainties, innovative technologies will be used, and contingent actions should be part of the cleanup plan and thus incorporated into the site wide Record of Decision.
- Any ongoing activities should be designed to prevent releases to the environment. Releases to soil, air, groundwater and surface water from nuclear weapon development and component testing are no longer acceptable. Any activities, if they must occur, should take all necessary precautions to avoid any releases to the environment of radioactive material and chemicals of concern.

3) Integrating Optimization on a regular basis

Years of experience have led to the realization that the significant uncertainty in cleanup approaches requires adopting a flexible, iterative approach. Frequently missed target dates and failure to meet remedial action objectives (RAOs) have forced the development of mechanisms that allow for the continuous improvement and optimization of remediation technologies and techniques, known as Remedial Process Optimization (RPO). The ROD is essentially the strategic plan for achieving the Remedial Action Objectives (RAOs) (e.g., preventing plume migration). By its very nature, the ROD should incorporate a decision logic and the basis for future adaptations as part of the overall completion strategy for the site.

The Interstate Technology Regulatory Council (ITRC) notes that "Optimization should be an inherent element of the remedy evaluation, selection, and design process". (ITRC - Remediation Process Optimization: Identifying Opportunities September 2004 for Enhanced and More Efficient Site Remediation). Other agencies have developed guidance on adaptable management and Optimization. We would like to see these integrated into the RODs.

Attachment D

Denise Taylor
Suquamish Tribe

Long-term Protectiveness

- The remedy is in place.
- Response is complete.
- Construction is complete.
- May achieve protectiveness in short-term or for current land use.

Working relationships

- It is important to recognize that different stakeholders have different values.
- Stakeholders may change over time.
 - A tribe may agree to ICS in the short-term, but it is important to always keep long-term use and values in mind.
- An adaptive management approach must be responsive and adaptable to community and stakeholder needs, in addition to technological innovation. This includes community outreach and stakeholder engagement as elements of adaptive management, long-term protectiveness, and stewardship.

Information and Communications

- There is a lot of emphasis on how to educate communities. There is a need for communities to understand relevant issues and be aware of the science opportunities available in community education.
- There is a challenge for Federal facilities to educate staff scientists on community-based, community-participation strategies and appreciative inquiry.
- There is a need to move from an “informing” mindset to one that fosters a relationship with open communication on both sides. We must move from an “us versus them” approach to a community building strategy.
- It is important to bring Environmental Justice components into communication strategy as a transition point and an open government policy.
 - There is no real reason sustainability concepts cannot be incorporated into this.

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At the FFCD meeting Cate Alexander of DOE offered to provide information on communication apps to be included with the draft meeting summary. These apps include:

UserVoice: Customer Engagement Made Simple

<http://uservoice.com/plans?gclid=CP2j-v4n6sCFQhN4Aodoh9UWg>

IdeaScope is a hosted feedback management solution for software product development that makes it easy for your product team to gain greater insight for producing high-value products. Make your product feedback process more efficient. Save time and involve more stakeholders without significant costs. <http://www.ideascope.com/info/is.aspx>

"USTREAM, You're On." Free LIVE VIDEO Streaming, Online ... Broadcast video LIVE to the world from a computer, mobile or iPhone in minutes, or watch thousands of shows from News to Entertainment to celebrities, 24/7." <http://www.ustream.tv/>

YouTube, "broadcast yourself", www.youtube.com, in addition to Facebook, Twitter and Flickr, among others.

Resources for and background info on the use of social media for federal agencies, in particular, are available at the GSA App Store https://www.apps.gov/cloud/main/start_page.do

HowTo.gov <http://www.howto.gov/> which also includes federal website requirements (such as Americans with Disabilities Act), contact centers and tech solutions

Attachment F

Department of the Interior Update on Abandoned Mine Lands Activities – Bill Lodder

Inventories

- Inventories are being conducted by the BLM and NPS. Data is collected and posted on the bureau's data systems and shared with the public on the Abandoned Mine Lands Portal. The first priority for our bureaus is to collect data on physical safety hazards and rank them for resolution. The next priority for the bureaus is to evaluate environmental risks.
- BLM State offices have added approximately 2,000 new sites to the master inventory and have contracted with a firm to conduct data validation of the master inventory. BLM is also preparing Feasibility Studies to evaluate the costs and time needed to address AML physical safety hazards. They will be conducting a separate Feasibility Study on Environmental Remediation to evaluate the cost and time requirements.

Federal Mining Dialogue

- The Department of the Interior participates quarterly with the Federal Mining Dialogue to discuss mining issues with other Federal agencies. In many cases the agencies can share information on best management practices, future studies, and develop guidance that cuts across the Federal government. One example is a proposed Communications and Collaboration Strategy. This strategy would allow regional regulators to sit down and review AML priorities so that Federal land managing agencies can focus resources on sites with joint concerns with EPA and states. It also recommends for senior executive leaders from the agencies to meet once a year to set priorities for the dialogue group.

Remining Proposals

- The Department of the Interior is working with mine claimants to evaluate proposals that would integrate activities to re-mine tailings to capture minerals left behind with cleanup activities. Under such proposals, as claimants processed tailings they would also consolidate and cap these tailings in an appropriate repository. This would be a win-win scenario, in that the claimant would be able to recover precious ores and contaminating mining waste would be properly disposed of. Site-specific agreements governing such proposals are being working on and the Department is hopeful that these negotiations will be successful.

Training

- Issues regarding state regulatory agencies and communities were raised at the last (October 2010) meeting. While regulations and guidance are clear on this issue, and we believe that most of our projects are meeting these requirements, we are proposing to provide training on these areas in FY2012 to raise awareness among our field staff. Topics will include ARAR Development, Community Involvement on CERCLA sites, and Tribal Consultation.

Abandoned Mine Lands Portal

- The Bureau of Land Management working with seven other Federal agencies, maintains the Abandoned Mine Lands Portal. This portal provides information on the hazards and risks associated with abandoned mines. This includes the type of mines (hardrock, coal,

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and uranium), extent of the problem, and how to stay safe. It also provides a communication platform on how to contact land managing agencies, both Federal and state, regarding abandoned mines or reporting them.

- It should be noted that public safety is our highest priority. AMLs claim the lives of many our visitors each year. Shafts and adits are an attractive nuisance where the unaware can become trapped, enter areas with deadly gases or lack of oxygen, or fall to their death. The Department will continue to focus on public safety and environmental protection at those sites that pose the highest risks. The web site is www.abandonedmines.gov.

Renewable Energy

- The Bureau of Land Management is working with the US EPA, US DOE, and State governments in reusing abandoned mine sites. Several sites are being proposed for wind and photovoltaic energy projects that will generate critical clean energy for public use.

Attachment G

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ACE – U.S. Army Corps of Engineers
 DNR – Department of Natural Resources
 DOD – U.S. Department of Defense
 DOE – U.S. Department of Energy
 DOI – U.S. Department of the Interior
 EJ – Environmental Justice
 EM – Office of Environmental Management (DOE)
 FFRRO – Federal Facilities Restoration and Reuse Office
 LM – Office of Legacy Management (DOE)
 SSAB – Site Specific Advisory Board
 USDA – U.S. Department of Agriculture