

MEETING WITH EPA/DOE

Date: June 3, 1992

Attendees: Martin Hestmark, EPA
Gary Baughman, CDH
Frazer Lockhart, DOE/RFO
Rich Schassburger, DOE/RFO
Erich Evered, EM
Farrel Hobbs, EMRPD
Kathy London, EMRPD

Erich Evered explained EG&G staffing assignments. He said that Mike Arndt will be acting Director upon Erich's departure, then will likely become RPD Manager after a replacement is found for Erich. Kathy London will be the Assistant Manager in RPD and provide continuity. Farrel will "return to Surface Water" when Mike moves in. Paul Bunge still part of the system.

The speakers and contents of their comments are shown below:

Hestmark: EPA is scheduling an ESD audit of lab program; they will defer the decision on OU 1 until that audit is complete. They want to see for themselves how the lab issue is being managed before they decide if there is good cause to get an extension for OU 1 RI. They hope to complete the audit before the July 30, 1992 due date for the OU 1 RI.

The RF lab issue relates to a Handford dispute: DOE unilaterally decided not to build an onsite lab because they think there is sufficient offsite capability, while Rocky Flats thinks there is not enough capacity. EPA will have to resolve the differences. Fernald submitted incomplete documents and lost their dispute. Their IAG was renegotiated.

Lockhart: Scott Grace has told Frazer that EG&G is continuing with work that is productive on the OU 1 RI report. Lockhart: does EPA want to review the skeletal document or do you want us to hold it?

Hestmark: I can't believe there won't be a benefit at looking at it. There are lots of controversial items. Dennis Smith's cancer risk work is an example. DOE/HQ wants 95% confidence at both sides of the bell curve. That's controversial (cancer slope factors).

Lockhart: It's our first, so I agree.

Hestmark: There is a need to address an underlying situation. We understand you're desperately trying to meet milestones but not address underlying issue. We said that on the OU 8 Work Plan. I would rather hear about the problem up front rather than allowing it to propagate and submit a deficient Work Plan. We may decide not to submit a Work Plan in order to solve a problem.

Baughman: I agree. OU 8 Work Plan was submitted but was missing information. That time could have been put into preparing a later adequate document. We should have talked about it.

Hestmark: You don't let the schedule slip until March 31 and fast-track the subcontractor to expend resources to meet a milestone you knew to be in jeopardy wasn't wise.

Lockhart: We're trying to hear and understand the message. The NOV has compounded the problem. You are obviously not satisfied that the regulators' impression of what it takes to fix something is unrealistic. The OU 2 dispute led to studies to improve Procurement, but everything continues to lag until the changes that were made can be seen.

HQ is trying to figure whether you have a hidden agenda or are a loose cannon. Autar Rampertamp looked at OU 8 and said that even though there are deficiencies, it's not the worst document we've given you. It's a draft Work Plan and an NOV was issued. There's lots of concern and I don't have a clue what the response will be. The full range of options are being considered.

You've said the regulators want DOE to be forthright, and now you've punished us for being up front.

We're looking at the entire IAG to see what is achievable. That's still underway and should be done before end of fiscal year.

Baughman: DOE identified the OU 8 Work Plan deficiencies. That's not the problem. The problem is that an inadequate product was known to be possible. We should have sat down and talked. That won't always be easy. We have lots of people looking over our shoulder. We can't accept a draft document that is not reviewable.

Hestmark: OU 8 is not just an inadequate Work Plan. The PA IRAP is an issue. We want to have the chance to agree or disagree. Should we spend 300K to develop a Work Plan that is deficient and that you don't intend to do?

When the W-88's were ended, we think that we have a stake in D&D and there is a problem doing cleanup when D&D's coming. Maybe it makes sense to terminate work inside the PA until D&D's resolved.

Lockhart: HQ has still not committed to a transition plan. Building 559 resumed, 707 is on the way. There is no guidance or approval to do anything different. I can't get more formal.

Hestmark: Why didn't you defer OU 8 until this was decided.

Lockhart: I'd be happy to do that.

Hestmark: Why should DOE review OU 8 when it will be impacted by those transition decisions. I don't have a large staff looking at documents. There is lack of vision.

Lockhart: DOE, after getting bludgeoned, is compliance oriented.

Hestmark: Is your budget really compliance-driven?

Evered: Of the money we have, it is all directed at compliance.

Lockhart: Everything we will do will be directed at compliance. Despite DOE missing commitments, that's the story.

Hestmark: We're all in a box -- we have to respond in a fashion that's unpleasant to you.

Evered: The IAG is a prescriptive document; we can't take a visionary approach, such as the PA IRAP modification.

Hestmark: EPA and CDH have granted 26 extensions.

Baughman: Headquarters is plowing ahead with stuff that doesn't make sense without involving us.

Hestmark: We didn't ram the schedules down your throat. DOE submitted them. We said to make sure you can do them. We expect DOE to live up to commitments it made -- to resolve the issues that cause problems.

The Roadmap issue one is budget, and the response is given as: renegotiate the IAG -- not get more budget. (He then gave Lockhart a letter that addresses roadmap.) The roadmap looks like DOE is trying to decide what law to break.

Lockhart: Roadmap was a low priority, and he won't stake his reputation on what it says.

Hestmark: The OU 8 Work Plan NOV was useful if DOE looks at the agreements as flexible. You've said you'll renegotiate on an annual basis. The NOV tells DOE and its prime contractor that this is an important issue.

Lockhart: Sending NOVs doesn't do anything. Why not send DOE a dozen? He wants it understood there is a potential downside.

Hestmark: EPA won't send DOE any NOVs because EPA doesn't administer the permit. EPA assumes the state did the right thing.

Baughman: We have a wide range of options and intend to pursue them all.

Lockhart: Since the State Attorney General (AG) has it, there is a predisposition for enforcement.

Baughman: CDH doesn't turn over enforcement to AG. They review everything. There is no enforcement predisposition. The decision will be in CDH's office.

Hestmark: The State was clearly in its right to do what it did. Don't lose the premise of the NOV. If there's a problem, let's talk. If we want a purely enforcement relationship, DOE can box the regulators into that.

Lockhart: If our statement of where the Work Plan stood in submittal was unacceptable, why didn't you work within the existing format? When the fabric of the IAG failed, you jumped to an NOV.

Hestmark: EPA wants to work within the agreement. You need to let us know when there's a problem. I think we have shown considerable restraint. We had numerous chances to go to dispute for stipulated penalties, but haven't.

Baughman: For OU 8, we're dealing with what we've seen as a problem for a long time. We wanted DOE/HQ and EG&G management focus, which we perceive to be a part of the problem.

Lockhart: HQ may feel like a cornered animal and fight you.

Hestmark: Getting defensive doesn't work.

Lockhart: This monthly meeting may not be working.

Hestmark: We think it is, but the monthly meetings may not be fully utilized.

Lockhart: We've been telling you about budget and procurement problems at these meetings, but don't document it. Does that mean it doesn't count?

Hestmark: Just saying the sky is falling and giving no resolution doesn't help. You do need to document your concerns.

Lockhart: DOE sees itself as the lead agency; potentially with the trustees.

Hestmark: We've sent you letters on numerous issues and received no proposals back. You haven't taken the lead. The problem is that we haven't seen a response. You said you expected to have an overall document in mid-June.

Lockhart: You won't see it because it will lead to a negotiation.

Hestmark: It may lead to a negotiation.

Lockhart: HQ has come to grips that the IAG is unachievable. It has to be discussed. It will have to lead to that.

Hestmark: It's not in anyone's interest to withdraw and play their cards close to the chest. We have to face the public united or it won't work.

Baughman: NOV is not our preferred approach.

I still haven't received a copy of the roadmap, and I requested one.

Lockhart: I don't feel proud of the roadmap. Maybe I will in a couple of years.

Baughman: August 6, 1991 waste evaporator letter -- that still hasn't been received. Lockhart said he would have to follow up. Weinman may have the task to respond.

Hestmark: We also haven't seen investigation derived protocol.

Arndt to Schassburger: The protocol is being worked.

Hestmark: Carbon units are collecting in a pile. Isn't this a RCRA waste, and it is not being properly managed? There may be some EPA/HQ guidance on similar wastes.

Hobbs: I was just told yesterday afternoon, and I'm working fast. We had been told since the carbon was to be regenerated, it wasn't a waste.

Hestmark: That's bad information. You are regenerating carbon, not RCRA constituents.

OU 3 -- The spring samples taken.

Hestmark: We send comments on responsiveness summary. Are you coordinating OU 3 with options? How can you FONSI without completing the investigation?

Lockhart: That's a fair question, and we don't see how the two can be joined.

Hestmark: How can you make a call without looking at endangered species?

Lockhart: Broomfield has worked hard to keep their portion of Option B out of NEPA. Westminster is looking to do the same thing. Option B is interesting.

Hestmark: We don't see the need for the ditch. They will ask Army Corps for a 404 permit (Wetlands) and Army will ask EPA.

Discussion of OU 1 Treatment: Hobbs explained we are having some difficulties at the OU 1 treatment system. We may have a tank of treated water that is high in total dissolved solids (TDS). The level of water in the french drain went from 5" to 3' overnight due to wet weather, we think. We may be faced with a choice of discharging the high-TDS effluent to Pond C-2 or letting the french drain overflow into the South Interceptor Ditch. Hestmark prefers us to discharge the water in the tank rather than see the South Interceptor Ditch (SID) overflow. He suggested DOE send a letter requesting permission to discharge if necessary.

Hestmark: Don't let it overflow to SID.

Significant field problems with OUs 4, 5, 6 and 9. Appear spring sampling hasn't started. If you don't do the work in an approved Work Plan, that's a compliance issue.

Draft transition plan -- will we see it or be involved in it?

Lockhart: I'll find out.

Hestmark: EPA/HQ thinks it's irresponsible for them not to be involved.

July 7th, next meeting, 1:00 p.m. at State Offices.

The meeting adjourned.