

MINUTES

**INSTALLATION RESTORATION PROGRAM
RESTORATION ADVISORY BOARD MEETING
ABERDEEN PROVING GROUND, MARYLAND**

THURSDAY, 4 DECEMBER 2003

7:00 p.m. – 9:30 p.m.

EDGEWOOD SENIOR CENTER

RESTORATION ADVISORY BOARD MEMBERS PRESENT AT THIS MEETING:

Ms. Mandi Elliott-Bird	Mr. Thomas G. McWilliams
Mr. Roy Dietz	Mr. Ken Stachiw (Army Co-Chair)
Ms. Christine Grochowski (Community Co-Chair)	Mr. Frank Vavra (U.S. Environmental Protection Agency)
Mr. Ted Henry	Mr. Dennis Warwick
Mr. Karl Kalbacher (Maryland Department of the Environment)	Ms. Ruth Ann Young

RESTORATION ADVISORY BOARD MEMBERS NOT PRESENT AT THIS MEETING:

Mr. Kevin Barnaba	Mr. Doug Richmond (Harford County Emergency Operations Center)
Ms. Glenda Bowling	Mr. Dan Pazdersky
Mr. Arlen J. Crabb	
Mr. Greg Kappler	

ENCLOSURES TO THESE MINUTES:

- 1: Roster of Meeting Attendees
- 2: Agenda
- 3: December 2003 Calendar of Events
- 4: January 2003 Calendar of Events
- 5: Unexploded Ordnance (UXO) Incident Reports
- 6: Performance Based Contracts Update Presentation Materials

I. EXECUTIVE SUMMARY

Administrative Comments

Mr. Ken Stachiw (Chief, Directorate of Safety, Health and Environment (DSHE) Environmental Conservation and Restoration Division (ECRD)) reported that the annual RAB Site Tour has been scheduled for Saturday, 10 January 2004. A location will be determined based on RAB Member interest. A public meeting regarding the Draft Environmental Assessment for the test track located around Phillips Airfield has been scheduled for 6:30 p.m. on Tuesday, 9 December 2003 at the Aberdeen Senior Center. All interested RAB Members are encouraged to attend the public meeting. The opening ribbon cutting ceremony for the Perryman Plant was held on 7 November 2003. The Tier 3 Operations Security (OPSEC) Task Group meeting will be scheduled during January 2004.

Performanced-Based Contracts

Mr. Randy Cerar (Army Environmental Center (AEC)) provided an update on Performance-Based Contracts (PBCs). The purpose of the presentation was to outline the PBC initiative for the Army's IRP, discuss roles and responsibilities involved with PBCs, and to discuss the current status and next steps involved in the process.

The IRP history has shown significant variation in program performance. Cost and schedule baselines have not been uniform, and schedules slip as the cost-to-complete grows. Estimates for the APG cleanup cost-to-complete APG cleanup grew from \$292 million in 2001 to \$308 million in 2003. APG has met only 31% of planned cleanup milestones since 2000. Mr. Cerar stated that no incentives exist for program completion.

Mr. Cerar reported that the strategy to "Get it Done" involves the increased use of PBCs, a decrease of contract overruns and change orders, increases in incentives for being innovative, streamlining the Army cleanup infrastructure with more dollars going to actual cleanup, using incentives for program completions, a reduction of variability in program performance, and optimization of project baselines.

Mr. Cerar explained that PBC is a mechanism to solicit bids based on desired results rather than activities conducted. Characteristics of PBCs include clearly defined performance expectations and measures, clearly defined due dates and milestones, use of performance incentives, and flexibility in exchange for accountability. The goal is for the contractor to achieve one or more performance objectives for each site identified. Environmental insurance may be used to protect against cost overruns above the estimated remediation costs. Under no circumstances will the Army "drop" responsibility for a site before its physical restoration efforts are completed.

Mr. Cerar reported that general benefits from using PBCs include the following: ability to respond immediately to regulatory requests for modifications to field programs; flexibility to modify approaches or endpoints based on regulatory feedback; projects are driven with closure in mind at every step; manager less burdened with funding requests and justification; contractor responsible and accountable for proposing the correct level of effort from the start; and incentives are provided to contractors to improve progress.

Mr. Cerar stressed that the Army will continue to work with the Installation, regulators, and the community when considering options for PBCs. As a result of the implementation of PBCs at APG, there will be no change to the role of the RAB or the IRP Manager. Under the PBCs the roles of the regulators will involve the following: attending information sessions with Installation personnel and contract team; participation in development of performance measures for the contract; participation in the Bidders'

conferences; review of remedial activities prior to remediation by providing comments on site documents; and ultimately providing concurrence on remediation completion.

Mr. Cerar reported that the next steps in the process involve the finalization of schedules for PBC scoping meetings, conducting site visits, and development of performance work statements and cost estimates. In summary, with PBCs, the Army remains responsible for cleanup. As the Lead Agent under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Army is committed to cleaning up APG to ensure the protection of human health and the environment. PBCs make the contractor accountable to the Army for their performance, while saving money and meeting schedules. The Army will maintain the RAB until all CERCLA objectives are achieved.

A lengthy debate was held with Mr. Cerar, RAB Members and other meeting attendees regarding the pros and cons associated with the implementation of PBCs at APG. Full documentation of the discussion will be provided in the 4 December 2003 RAB Meeting Minutes.

II. OPENING REMARKS AND ADMINISTRATIVE COMMENTS

The December 2003 U.S. Army Garrison Aberdeen Proving Ground (APG) Installation Restoration Program (IRP) Restoration Advisory Board (RAB) meeting was called to order by Mr. Kenneth Stachiw (Chief, Directorate of Safety, Health and Environment (DSHE) Environmental Conservation and Restoration Division (ECRD); Army Co-Chair) at 7:00 p.m. on Thursday, 4 December 2003. The meeting took place at the Edgewood Senior Center located at 1000 Gateway Road in Edgewood, Maryland.

Enclosure 1 to these minutes is a meeting attendance list. RAB Members in attendance received an agenda (Enclosure 2), a RAB calendar of events for December 2003 (Enclosure 3), a RAB calendar of events for January 2004 (Enclosure 4), Unexploded Ordnance (UXO) Incident Reports (Enclosure 5), and a copy of the Performance Based Contracts Update presentation (Enclosure 6).

Mr. Stachiw announced that the annual RAB tour would take place at Carroll Island and Graces Quarters, on Saturday, 10 January 2004, at 9:00 am, for those members interested in attending. A public meeting will be held at 6:30 pm on 9 December 2003, at the Senior Center in Aberdeen, concerning the Draft Environmental Assessment for a test track surrounding Phillips airfield. The Perryman Treatment Plant ribbon-cutting event last month went well. Some breakthroughs regarding OPSEC issues have occurred, though none have yet been formalized. More information will be provided at the January 2004 RAB Meeting. A Tier Three OPSEC meeting may be scheduled in January.

Ms. Christine Grochowski (RAB Community Co-Chair) noted the large number of guests in attendance and extended a welcome and thank-you to them. Ms. Grochowski introduced Ms. Bridget Smith from Senator Paul Sarbane's office, Mr. David Sloan from Representative Wayne Gilchrest's office, Honorable Mary-Dulaney James from Annapolis, and Honorable B. Dan Riley.

After confirming RAB Members had no further comments, Mr. Stachiw introduced Mr. Randy Cerar (Army Environmental Center) to provide an update on the Guaranteed Fixed Price Remediation (GFPR) contracts.

III. PERFORMANCE-BASED CONTRACTS UPDATE

Mr. Cerar expressed appreciation for the opportunity to present and discuss the implementation of Performance-Based Contracts (PBCs) at APG. A great deal of information and discussion has been circulating through the Internet, papers, etc. Mr. Cerar expressed that he would like to clarify points to help RAB Members understand what PBCs are, as some circulating information is inaccurate.

Mr. Cerar announced that he is a member of the AEC, and head of the Army Cleanup Division. The office is located in Edgewood, Maryland, and is responsible for managing the Army's cleanup program. Mr. Cerar has worked in the area since 1985, is a community member, resides in Abingdon, and is extremely familiar with the cleanup program. Mr. Cerar has previously worked with Mr. Stachiw on issues such as the Harford County water treatment plant, and Lauderick Creek.

Mr. Cerar displayed a slide detailing the purpose of the presentation. The presentation will provide an update on PBCs, discuss the roles and responsibilities of the Installation, RAB, and regulatory community, and discuss the next steps to be taken.

Mr. Cerar stated that he would like to clarify some issues upfront, and then continue with the briefing. The implementation of PBCs is in no way related to Installation jobs. Current jobs at the Installation will still be present after PBCs. Scrutiny of Army jobs is due to the number of jobs authorized exceeding the original policy level of four and a half project officers. Some jobs may be reduced over time, regardless of PBCs. The two issues may appear to be intertwined, but are actually two separate subjects.

Mr. Ted Henry (RAB Member) asked if two or three project officers would be removed from the IRP regardless of PBCs. Mr. Cerar reiterated that the original authorization for the Installation was four and a half project officers to run the IRP. Over the last four to five years, the number of positions has decreased from eight positions through attrition. Further attrition of positions will naturally occur over time. People are not necessarily losing positions, but may be transferred to other areas.

Mr. Cerar stated that during 2003, APG has seen a net positive effect of 20 positions at Edgewood through centralization of the IRP. From a community perspective, centralization of the Army cleanup program has been positive. The increase of positions has occurred in the AEC.

Mr. Cerar stated that a perception exists that the AEC is turning work over to contractors, who then deal directly with regulators and the public, without Army participation. This perception is untrue, and the Army will continue to serve as the lead agent of authority. PBCs were derived as a contract mechanism to hold contractors accountable. The AEC will still have responsibilities, and the Army will be responsible as lead agent to the public, regulatory community, and taxpayers. The bottom line is that all agencies will maintain their roles of responsibility, with the difference that contractors will be held responsible for work completion within cost, and scheduling.

Mr. Cerar stated that another false perception is that PBCs are a one-size-fits-all mechanism. PBCs actually include a multitude of contract types. The most familiar type is the insurance-based contract, which the AEC is considering. There are also fixed price with incentives contracts, and many others with ways to add incentive to the process. APG and other sites need a more flexible contract mechanism. AEC is looking for the best way to ensure job completion at a fair price.

Mr. Henry asked how the AEC's contracting mechanism would be different if the IRP is already using fixed price contracts. Mr. Cerar noted that the Army already conducts a large amount of fixed price contracting, which is very prescriptive in nature. Prescriptive contracts dictate to contractors exactly what must be done, without allowing them to investigate or change the work plan should the need arise. A change order must be made to a contract if the work plan needs to be changed, creating delays and

increased costs. The AEC is looking for a non-prescriptive, objective-based contracting mechanism whereby contractors are presented with a site that they must complete on their own accord, without dictation. Contractors must determine the best method of completion, while still undergoing the regulatory process. The Army will still review all documents, and the Environmental Protection Agency (EPA) and State must concur with those documents. Contractors must produce a proposal for completion upfront, versus the prescriptive requirements dictated in current contracts. There will no longer be a need for change orders, contract modification, and increased costs with objective-based contracts, versus prescriptive contracts.

Mr. Cerar stated that the Army currently has 14 PBCs, which are predominantly insurance-based. PBCs have yielded faster results, met schedules, and provided an approximate cost savings of 15 percent. Cost savings can then be reinvested in the program to clean up more sites. The concept is to pursue a better cleanup, faster.

The Honorable Dan Riley (Maryland State Delegate) asked what would happen if a contractor uncovered something unexpected and needed to address that problem, if change orders were obsolete. Mr. Cerar stated that some things would be purposefully excluded from the contract, such as chemical warfare materiel (CWM). Excluded or unexpected items would be separately addressed. Items or instances not excluded would be defined in the scope of work, and covered under the contract for completion. All possible site information, including groundwater data, soil data, previous reports, etc. would be provided to the contractor, who must then present a proposal with contingencies. Overall, PBCs seem to present a better value than current contracting methods.

Mr. Karl Kalbacher (Maryland Department of the Environment (MDE)) asked if PBCs were more appropriate for use in situations with Records of Decision (RODs) already in place. RODs clearly identify what the contractor should do, and provide the opportunity to exact efficiencies. Investigations with uncertainty as to where the investigation would lead suggest that efficiencies may short-circuit the process and lead to a less comprehensive solution. Mr. Cerar stated that a very well defined site under a performance-based contract would have a lower risk from an upfront bidding standpoint. In an ideal situation, site information would put limits on the extent of contamination, but not fully define the site. For example, the type of contamination and approximate contaminated area is known, and maximum contaminant levels (MCLs) have been identified. PBCs would be most beneficial in such situations. Once the contract is awarded, the contractor has more flexibility, as defined under the scope of work, to make field changes if needed once field data is collected and analyzed. There would be many benefits to implementing a PBC before a ROD is in place.

Mr. Henry stated that Mr. Cerar's statement is a direct contradiction to a letter signed by Mr. Raymond Fatz, the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health. The letter lists the top five lessons learned from GFPR contract efforts, with the first stating that GFPR contracts should not be used if the cleanup objective is unknown, which is pre-ROD, or not agreed upon by all concerned parties, which would include various entities representative of the State. Mr. Henry wants to know how AEC's implementation of PBCs would be different than Mr. Fatz's, who is aware of APG's cleanup record and efforts. Mr. Cerar provided an example of trichloroethene (TCE) in the groundwater, and asked Mr. Henry what the cleanup objective would be. Mr. Henry stated that the cleanup objective would be dependant on the ROD, and on the cleanup level established. Mr. Cerar stated that in such a situation, there are definable end points. A ROD may not be in place, but there would still be definable end points, as determined by the MCL. Mr. Henry concurred. Mr. Cerar stated that many methods could be employed to reach that endpoint, but a ROD would be prescriptive and define that method. The ROD could specify methods and technology used, without bringing industry to the table and allowing the best technology, best solutions, and flexible opportunities found in pre-ROD

environments. Mr. Cerar reiterated that the ideal situation for PBCs, especially with insurance, is to bring in a contractor at the early Remedial Investigation (RI) Feasibility Study (FS) stage.

Mr. Cerar reiterated that AEC is looking at a more flexible contract mechanism at APG. Many people are concerned with GFPRs, which are fixed price contracts with insurance. GFPRs may not be the most effective contract mechanism at APG, due to some scenarios. Other ways can be used to add incentive to work, such as award fee and incentive fee contracts, which provide a bonus for contractors to be responsible for costs and schedules.

Mr. Cerar stated that insurance would only be possible at sites in the Aberdeen Area of APG. These sites would include TCE sites that are fairly well defined. Most sites in the Edgewood Area would need more flexible contracts, such as award fee contracts. The options would need to be evaluated.

Mr. Henry asked for an explanation of award fee contracts. Mr. Cerar stated that the best example would be the Rocky Mountain Arsenal contract. It is a cost-plus award fee contract, designed as a result of uncertainties at the Arsenal. The award fee is a way to add contractor incentive to keep costs within budget, and on schedule. Thus far, the contract has been very productive. AEC would analyze lessons learned from that contract and improve on them for APG's contracts.

Mr. Cerar stated that PBCs are not solely for cleanup programs, and several agencies across the government, such as the Department of Education, and Department of Energy, are evaluating their usefulness. PBCs account for approximately 25 percent of all Army contracts, and only 9 percent of the Army's cleanup program. The cleanup program is lagging on PBCs, as compared to the Army overall.

Mr. Cerar displayed a slide briefing the IRP history. The IRP at APG has spent approximately \$470 million for cleanup thus far, and costs are projected at \$360 million for cleanup completion. AEC is evaluating how to reach completion, and how to improve efforts. This evaluation was conducted for all 109 Army Installations that require cleanup funding. APG completion costs have inflated from \$292 million in 2001, to \$308 million in 2003, despite the \$470 million that has already been spent. Ideally, the \$292 million should have decreased from the \$48 million that was spent from 2001 to 2003.

Mr. Henry stated that the figures are incorrect, as contamination is discovered every year, and raises the figures. Mr. Stachiw concurred that there is some issue with the numbers that were presented.

Mr. Cerar stated that APG has completed only an average of 31 percent of planned cleanup milestones from 2000 through September 2004. He noted that less incentive exists to complete work, as it takes separate mentalities to start a project, work through the project, and reach completion.

Mr. Cerar displayed a slide detailing the strategy to reach cleanup completion. The use of PBCs, such as insurance-based, and incentive-based, will increase. The concept is to reduce contract overruns and change orders, and increase incentives for completion. AEC has looked at decreasing Army cleanup infrastructure, as the Army has centralized its cleanup program. At APG, as the Army program becomes more centralized, more resources are available for projects, and completion. Reductions to the variability in program performance will be made. For example, attempts will be made to repeat successful efforts throughout the Army.

Mr. Cerar displayed a slide defining PBCs. PBCs are used as a method to reach desired results, rather than the purchase of processes and activities. The result is to reach regulatory completion for a particular site. Meeting this goal requires the involvement of regulatory processes, public processes, investigations, studies, and analyzing technology. The focus will no longer be on the 'how', but on the 'what'.

Characteristics of PBCs include clearly defined performance expectations and measures, clearly defined due dates and milestones, and the use of performance incentives. There will still be Army oversight, as the contract is still an Army contract, and activities must be monitored.

Mr. Cerar displayed a slide providing information on PBCs for environmental cleanup. The goals for each identified site are to have response complete, a remedy in place, conducting long-term monitoring, and reaching a successful 5-year review. Environmental insurance products, such as cleanup cost cap insurance, and pollution liability insurance, may be a means for reaching these goals. These methods may not work in all situations, and the best avenue to pursue a contract must be evaluated. Under no circumstances will the Army 'drop' responsibility for a site.

Mr. Cerar displayed a slide listing the general benefits of PBCs. Benefits include increased field flexibility, elimination of change orders, flexibility in proposed technology, and a process driven by completion. Managers will spend more time on oversight responsibilities, technical document reviews, progress reviews, and public meetings, than on contract modification. The contractor must provide a reasonable level of effort upfront, and will be held accountable to their bid. Contractors will be unable to buy into the process. Contractors will have increased incentives to improve work progress, and shorten their time frame for completion.

Mr. Cerar displayed a slide on collaboration. The RAB will continue to be a valuable and intricate part of the process. The Federal Facilities Agreement (FFA) will remain a valid, enforceable document. The relationship between the Army, the regulatory community, and the public community will not change. The relationship between the Army and its contractors will change.

Mr. Cerar displayed slides detailing the roles of the RAB, IRP manager, and regulator. He stated that the RAB's role would not change. The only change to the IRP manager's role is that less time will be spent on contract administration. Regulators will continue to interact with the Army, and not directly with the contractor. The regulator role will not change. The largest expected change, as seen at other Installations, will be an increase in the pace of documents. Contracts have been found to urge for document reviews, to reach completion faster. An aspect of PBCs is to achieve results faster.

Mr. Cerar displayed a slide listing the next steps for APG. Sites will need to be evaluated to see which ones remain open, which can be grouped together in contracts, and which contract mechanisms will work best. Options still need to be evaluated, including business analysis, and site visits. Performance work statements geared toward reaching completion within a set time frame will be developed, and site priorities will be determined. Everything must undergo the regulatory process, and be completed in accordance with the FFA, and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). There will be no shortcuts, but work will be more expediently completed.

Mr. Cerar displayed a slide providing a summary of the presentation thus far. The Army will continue to be the Lead Agent, and be responsible for the cleanup. PBCs will make contractors accountable to the Army for their performance. The Army will maintain the RAB until all CERCLA objectives are achieved. The majority of working relationships, with the exception of the Army-contractor relationship, will remain the same.

Mr. Henry asked how the AEC, with IRP personnel reductions and increased document output to regulators, would be more capable than the IRP of holding contractors accountable. Mr. Cerar stated that the PBC mechanism would enable improved schedule performance, and cost reductions.

Mr. Henry noted he had been involved in APG cleanup for 10 years, and involved in the RAB for 9 years, and although Mr. Cerar had been involved with APG since 1985, and APG cleanup efforts since 1999, he had never before met Mr. Cerar.

The Honorable Mary-Dulany James (Maryland State Delegate) noted that the presentation seemed to focus more on results than activities. Ms. James asked for the amount of cost savings, assuming an analysis has been done, for a timeline of savings, and for assurance that safety will be equal or better. Ms. James noted that a concrete basis for the PBC approach had not been provided. Mr. Cerar displayed a slide listing various PBCs awarded to active site facilities to date. The slide is not a complete list of Army PBCs. PBC examples in the Base Realignment and Closure (BRAC) Program have been able to cleanup sites that were made available for transfer ahead of schedule and within costs. Ft. Gordon and Ft. Leavenworth contracts have been in place for several years. Mr. Cerar suggested that RAB Members and interested persons contact regulators at those sites for their opinions on the contracts. Regulators have been very content with the product, and performance. Schedule performance has been approximately three to four months ahead of schedule, with cost savings running around 16 percent.

Ms. James asked if the same performance schedule and cost savings are projected for APG. Mr. Cerar stated that there are no expected cost savings for the initial implementation of fiscal year 2003 (FY03) PBCs. The Army has averaged a milestone completion of 40 percent in the cleanup program, which has no confidence in timely program completion. The AEC wants to focus mainly on scheduling and time savings, rather than on cost savings.

Ms. James asked for the projected percentage of time savings. Mr. Cerar stated that previously mentioned time savings of three to four months were on individual projects. Time savings at APG could be an average of a few years, over a period of time. In some cases, documentation is presented so rapidly that the contractor must be slowed down to allow for the regulatory process.

Mr. Henry asked how contractors were slowed down, if they were given more flexibility. Mr. Cerar stated that everything is subject to the review process, and collaboration with the EPA could regulate document submission, despite pressure from the contractor community. All stakeholders must agree upon document review speed.

Ms. Grochowski asked for the number of years PBCs have been used. Mr. Cerar stated that PBCs were awarded at Ft. Gordon three years ago, and many were awarded in 2002.

Ms. Grochowski stated that there is not a history of PBC success, and contracts awarded three years ago may have been completed two years ago at the earliest. Ms. Grochowski asked why the current contracting process, which has a known and proven history, despite slightly higher associated costs, is being exchanged for another. Mr. Cerar stated that Installation reviews have shown that under PBCs, milestones are completed 85 percent faster than the remainder of Army contracts, which complete milestones at 40 percent. Milestones are completed more consistently, and the BRAC Program has completed and transferred sites in California far ahead of schedule.

Ms. Grochowski asked if other Installations' sites are as complicated as or comparable to APG. Mr. Cerar stated that Rocky Mountain Arsenal, not included on the list of PBCs displayed due to a process revision, uses a cost-plus award fee process. Rocky Mountain Arsenal is the most complicated program within the Army, and PBCs have worked extremely well. Flexibility to complete projects from boundary to boundary across the facility has been achieved, while maintaining the schedule.

Mr. Henry stated that cleanup at Rocky Mountain Arsenal is poor from a community perspective, RODs are equally poor, and there will be future significant long-term groundwater and health issues. Rocky Mountain Arsenal is not a good cleanup comparison, as it is a contaminated site where many things have been left in place, and may need to be monitored many years from now. Mr. Cerar agreed that Rocky Mountain Arsenal cleanup has had a less than exemplary performance. Rocky Mountain Arsenal does serve as a good comparison for site complexity. Mr. Henry expressed confusion as to why AEC is deciding the best contracting mechanism, and why the IRP is not capable of making that decision.

Mr. Dennis Warwick (RAB Member) stated that the majority of public information has been on GFPR contracts, but cost-plus award fee and such contracts are open-ended contracts. Mr. Warwick asked how costs could be controlled and incentive still provided to contractors. Mr. Cerar stated that open-ended contracts are less fixed than a straight fixed price contract. The exact contracts to be used at APG have not yet been decided, and discussions are needed to reach a conclusion. GFPR contracts, not open-ended, with incentives, award fees, or insurance, seem to be the best mechanism to use. If increased flexibility is needed due to challenges, than other contract types can be used. There is no guarantee that AEC's decision will be a better mechanism than the current contracts.

Mr. Riley asked for Mr. Stachiw's opinion on PBCs. Mr. Stachiw stated that concerns exist over the GFPR contracts, and as mentioned, APG does miss occasional projected goals. Although training missions are ongoing at APG, ongoing cleanup is also a necessity. APG is still an open and active Installation, while Rocky Mountain Arsenal is a closed Installation. Mr. Stachiw stated that it is nice to be capable of defining what needs to be cleaned up. For example, AEC is about to build a new headquarters building for about \$50 million. They can come back in three years and the building will be done – you know what you are getting. Mr. Stachiw stated that, by contrast, we live here and we want to know exactly what the cleanup will accomplish when it is done. The goal is not just to get work completed, but the goal is to complete the work cleanly. Under fixed price contracting, a concern remains that contractors may not have incentive to complete work appropriately and identify additional areas of contamination. Mr. Stachiw stressed the importance of the IRP having the ability to identify the contamination to ensure that all cleanup efforts are completed to the highest standards.

Mr. Stachiw stated that, with regard to scheduling and fixed price contracting, it is unlikely that regulators, BTAG, or the contractors will be able to work faster if regulators cannot review documents and work faster. Currently, RODs being forwarded to AEC for signature are not being signed in a timely fashion. Mr. Stachiw stated an example of a ROD that was provided to AEC two years ago for review and signature that remains unsigned. The current contracts at APG already provide flexibility. The contractors, including Weston and General Physics Corporation (GP), have done a marvelous job of being flexible in completing cleanup projects without an abundance of paperwork and extra costs. Mr. Stachiw stated his belief that the IRP has assembled a good team that already does a good job. Mr. Stachiw stated that it would be beneficial to have the ability to get RODs signed on a lower level, allowing projects to be completed in a more effective and efficient manner. Many problems could be solved if the flexibility to be extended to the contractors under PBCs could be extended to the IRP. That solution, however, may not be possible.

Mr. Stachiw stated that a fixed price contract could be successful as long as the IRP has the ability to oversee the ongoing activities. The cleanup process does not consist of simply reviewing a document and approving it. Documents must be reviewed, and oversight is needed to ensure that work is carried out in the manner in which it was portrayed in the document. In the past several contractors have carried out actions not specified in their documents, such as installing wells in different locations. Without oversight, contractors may purposely or inadvertently do substandard, improper work and cause wetlands or

endangered species violations that would result in the Installation Commander getting in trouble. Therefore, it is essential for oversight to be included in the contracting process.

Mr. Thomas McWilliams (RAB Member) asked how other Installation sites compare with APG, and if they are active research and development sites with active ranges. Mr. Cerar stated that some Installations have active ranges and operating ammunition plants. Operational issues have not resulted, but contractors must still work around Installation schedules. It is important that APG maintain testing schedules. At the same time, good solutions that the public and regulators can accept must be presented.

Mr. Henry asked for the number of tenants that exist on the Installation. Mr. Cerar stated that there are approximately 58 tenants. Mr. Henry stated that APG is more complex, and tenants are an important issue to be considered.

Mr. Henry asked if independent sampling has been conducted to evaluate if contamination was missed with the expedited process at other Installations. Mr. Cerar stated that he would look into the issue and provide Mr. Henry with the information.

Mr. Henry noted that the AEC's recommendation of PBC implementation before RODs are established is in direct contrast of Mr. Fatz's letter. Under the new PBC scenario, contractors will have a significant amount of money and flexibility, without incentive to find contamination. PBCs will destroy current fragile working relationships, and money will be the incentive that drives how well sites are cleaned up. The Department of Energy (DOE) and U.S. Navy tried PBCs and had no success, or cost savings. The Army's limited use of PBCs has led to an estimated percentage of savings based on a comparison to cost-plus contracting, which the Army currently uses. The 14 percent in savings referenced by Mr. Cerar is based on cost-plus estimates, which are not used at APG. APG is a much more complex site, with existing historical knowledge.

Mr. Henry stated that with regard to overrun issues, new contamination is constantly discovered at APG, such as perchlorate discovered in 2002, and the discovery of explosives next to the Perryman well field. Documentation for RODs and suggested sampling is sent to AEC, and denied approval. A large amount of contamination is constantly left in the ground when landfills and sites are simply capped. A legacy will always remain at APG. PBCs will result in more contamination missed, or left in the ground, which goes against sustainable range management and the Army's mission. There will be less usable land to work with in 15 years. Mr. Henry reiterated that he did not follow AEC's logic for implementing PBCs.

Mr. Cerar stated that he did not agree with Mr. Henry's opinion. Mr. Cerar was involved with the Harford County treatment system movement, and the related issues are understood. Concern over contractors not thoroughly completing tasks is unfounded. Contractors would want to get regulatory and public buy-in to their documentation and process, and they would have to do what is needed from sampling and analysis standpoints.

Mr. Henry stated that Mr. Cerar is incorrect in claiming that contractors would do appropriate work. Mr. Henry stated that he and Ms. Grochowski, with IRP Project Managers, had argued with a contractor about well placement, because the contractor thought that their technical expertise was being questioned. This incident occurred at a time when the Installation had leverage over the contractor. The RAB will change if a contractor is only required to meet legal requirements. RABs do not function on legal requirements, and are not legally required. Cleanup efforts at APG are based on exchanges and working relationships. It is not possible to write a contract dictating that a contractor must go above requirements set by the National Environmental Policy Act (NEPA), and CERCLA. Public meetings will only be held when they are absolutely needed, and comments will be taken merely for show. Comments that infringe upon

contractor profit margins will be overlooked. The AEC and IRP will have very little legal authority over contractors once PBCs are signed.

Mr. Cerar asked if anyone had any experience with PBCs that would grant certainty that such a situation would occur. Ms. Grochowski noted that PBCs have been in effect for only 3 years, and that the AEC does not have experience with PBCs either. The RAB has more experience, and works well with the Army. Predictions on working relationships cannot be made. Ms. Grochowski agreed with Mr. Henry's statement on the argument with a contractor. The prior ten years of work conducted by the RAB will be to no avail if PBCs are used.

Mr. Henry predicted that within a year of signing PBC contracts, the RAB would cease to exist. A very delicate working relationship exists between the EPA, APG, and the community.

Mr. Kalbacher stated that, as a member of the State government, work is done with the Department of Defense (DOD) through a contractual relationship called the Department of Defense State Memorandum of Agreement (DSMOA). Each year an agreement and outline is made for the manpower resources funding to address cleanup sites. No formal information has been received thus far on the impact of PBCs on the DSMOA, which is already in place for next year.

Mr. Kalbacher asked if the AEC should be doing more work with State and Federal government agencies to move activities along faster. Such discussions have not occurred yet. Mr. Cerar stated that the AEC has not yet had a chance to meet with many State and Federal Agencies, but was able to brief the EPA at their national conference. AEC's regional environmental offices are beginning to contact each state to discuss plans. Most work completed by the APG IRP this year will be the result of contracts awarded last year. Contracts awarded this year will be for work implemented next year. As time goes on, the AEC will present states with lists of Installations involved with cleanup activities that will implement PBCs for FY04, FY05, and so on. States that are affected will receive information such as the timeframe of work, activities to be expected, and when increased documentation can be expected. Documentation is anticipated to increase by 25 percent.

Mr. Kalbacher stated that in South Carolina, an understanding with the State called for an increase in the oversight by three times the personnel to address the increased documentation load. Mr. Kalbacher asked if the same understanding is to be expected for APG. Mr. Cerar stated that the increase was by a single person. Personnel from a U.S. Navy site that has reached completion of a PBC will be relocated to oversee PBC work in Georgia. There will be a shift in personnel, and increased document flows. Within the Army and State interactions, changes are anticipated in the DSMOA, and related resource support.

Mr. Kalbacher stated that at the beginning of the presentation, it was mentioned that initially 4.5 people were assigned to APG to address environmental issues, and the number has grown. Mr. Kalbacher asked if the scope of effort had changed over the years and reflected a need for more personnel. Mr. Stachiw stated that more people were needed for oversight. The goal is to appropriately reach completion. In five to seven years, personnel will be reduced due to a decreased workload. Previous discussions with Mr. Cerar have included the possibility of relocating people to other jobs and locations. Currently, especially with a new policy, completion is planned for the next five to seven years and all current personnel are needed. The goal is achieve clean sites, not push documentation.

Mr. Frank Vavra (U.S. EPA) stated that the Federal government allocates between five and ten percent of project cost for oversight, and asked what percent at APG is currently allocated for oversight. Mr. Stachiw stated that the figures are uncertain, but likely in that range, with approximately \$20.2 to \$27 million per year.

Mr. Henry asked Mr. Vavra if AEC has spoken with Region III about the impacts of the new PBC process. Mr. Vavra stated that Mr. Tom Voltaggio had been recently contacted by Mr. Fatz's office and will be meeting next week.

Mr. Henry asked if that contact occurred after his letter and article had been sent out. Mr. Vavra stated that it did.

Mr. Cerar reiterated that the AEC did brief the EPA at the national conference in Baltimore last spring. The briefing was not specifically targeted to APG, but focused on the Army's overall strategy. Questions and discussions on APG have been raised in the past three to four weeks.

Mr. Henry asked if there has been any briefing to EPA Region III on the impacts to their manpower and money issues by PBC action. Mr. Cerar stated that there has not yet been a briefing.

Mr. McWilliams asked for examples of contractors that have been successful functioning under PBCs. Mr. Cerar stated that Arcadis, Geraghty & Miller, TetraTech, CH2M, and Parsons are a few to mention. There are approximately seven to eight companies that have done Federal contract work. Several more companies do PBCs, such as GFPRs with and without insurance, in the private sector. A general announcement of PBC use was issued, due to interest from several companies.

Mr. McWilliams asked if there would be only a few, or many PBCs issued for APG. Mr. Cerar stated that discussions are needed to determine the type and number of contracts. Currently, two contracts would be needed, one for Aberdeen Areas, and another for Edgewood Areas. Parts of the Aberdeen Area may not be included in certain mechanisms. The type of mechanism is important. Mr. Cerar reiterated that PBCs are not a one-size-fits-all solution, and that APG is a complex facility requiring more flexibility with certain liabilities. Some contract mechanisms may remain in place, while others are modified. Currently, no definitive answer can be provided.

Ms. Grochowski read a statement provided by Ms. Glenda Bowling (Technical Assistant Grant (TAG) Manager). Ms. Bowling wrote, "even if companies get a contract to clean up site areas, what guarantee will we have that they are qualified and will do the cleanup as well as the Army has. There are companies out there that will try for contracts, but with the dozens of different problems, such as biological and chemical, radiation, unexploded ordnance (UXO), etc. a lot of these companies that cleanup Brownfields would seem to be in over their heads in anything but a Brownfield. Who would oversee them and if they move out, and the site is not cleaned up to standards, what recourse will we have to see that it is? Is the Army going to have to finish the job?"

Mr. Cerar stated that the AEC is examining GFPR contracts and holding contractors responsible. The AEC and IRP would conduct the oversight, as previously done. The mechanism will have more bite to it than in the past. Contractors will be held responsible, and payments can be withheld. Contractors will be responsible for completing work to the satisfaction of the Army, the regulatory community, and RAB input.

Ms. Grochowski asked what would happen if a contractor got in over his head, and underbid projects. Mr. Cerar stated that there have been contractors in the past that did not complete tasks. In those situations, other contractors must be brought in and paid. Contractors will be unable to underbid contracts, based on statements of objective in the contracts. Contractors will need to provide a good solid bid for work completion.

Mr. Henry asked if Mr. Stachiw lacks the authority to hold contractors responsible. Mr. Cerar stated that it would depend on how the contract was written. Mr. Stachiw stated that the best contracts are local contracts, and payment will not be issued if work is not completed. PBCs are not new to APG. There have been contractors working for the Corps that have botched jobs, and were paid. Those contracts were not managed by the IRP. The IRP has had a successful record of meeting costs with its contractors.

Mr. Roy Dietz (RAB Member) asked if contractors are paid after milestones are met, or before work is started under PBCs. Mr. Cerar stated that payment is issued upon completion of documents and milestones. Payment is broken down by line items, and issued for completion of a FS, and the ROD. There are incremental payments through the process, so that contractors do not have to assume full risk.

Mr. Bob Maddox (U.S. Tech Escort) asked how large AEC's staff would be at full strength if they have already added 20 personnel. Mr. Cerar stated that eight staff members were added for cleanup activities, and 12 staff members were added to centralize other environmental programs within the Army, such as test certification, test applicators, and other programs. Total staff at the Army cleanup center, including military and civilians, is approximately 176 people.

Mr. Maddox asked if the AEC is already at full strength. Mr. Cerar stated that AEC is basically at full strength.

Mr. Maddox stated that contractor prices would increase by 20 percent, due to unknown or unexpected problems. Statistically, those problems would occur at only one of 100 sites. Work may be completed faster, but costs will increase by millions of dollars if contractors are paid 25 percent more on each contract 99 times.

Mr. Cerar stated that the Lake City Army Ammunition Plant faced that concern this year. The Plant encountered problems with dense non-aqueous phase liquids (DNAPL), and TCE in the groundwater. Under current contracting mechanisms, the work was proposed at approximately \$68 million. Contracts are awarded competitively, based on a technical evaluation of whether the bids are acceptable. The bid offering the best value is then selected. The same contract was then offered competitively, and was awarded for \$52 million. Findings show that contractors do not build contingencies into each contract, but rather spread the risk across the number of sites that are in the contract. Contingencies seen are not as great as would be expected.

Mr. Henry asked that given the relatively unsuccessful history of PBCs, and the lack of roundtable discussions as far as potential impacts to characterization, regulatory oversight, or community involvement, why would the Army move forward with implementing 80 percent of the 109 cleanup sites under PBCs in five years. The AEC is going to broadly implement PBCs, which has failed for other government entities, over all Army cleanup sites. The decision appears to be a financially driven decision, without thought given to other parameters. The PBCs in the Army environmental program comprise only at 9 percent of contracts, while Army wide they account for 25 percent of contracts. In an example of bridge construction, GFPR contracts would be easy to issue, as all the parameters are known. It would be logical, and protective of human health that the environmental side of PBCs is at a lower percentage, because investigation and cleanup is iterative by nature. Contracts and methods cannot be conducted in the same manner as for bridge construction. More sampling, and contract modifications are needed, such as plumes at Lauderick Creek, and Carroll Island and Graces Quarters. Contract modifications, resampling, and further investigations are a regular occurrence at APG. The decision to use PBCs extends from financial drivers from presidential management agendas, and business initiative counsels.

Mr. Henry reiterated that there has been no logic involved with the PBC process. A request will be mailed to elected officials that they request a Government Accounting Office (GAO) investigation, and hold a national roundtable discussion.

Mr. Cerar reiterated that PBCs have shown an 85 to 90 percent milestone completion, whereas the Army average is approximately 40 to 50 percent. The move to use PBCs is not solely financially based.

Ms. Grochowski asked why the IRP is not being allowed to handle contracting, or the flexibility that would be extended to contractors under PBCs. Mr. Cerar stated that the IRP may be granted that freedom, but possibilities would need to be explored. Currently, as individual tasks are offered, there is not necessarily competition for each individual task. There is a competition for overall contracts, and whether the correct value for the contract is offered must be explored.

Ms. Grochowski stated that the AEC has never given the IRP the money and flexibility that would be offered to contractors under PBCs. Mr. Cerar stated that free reign will not be granted to contractors, but the contract mechanism will be different.

Ms. Grochowski asked again why the IRP could not be given the same opportunities that would be granted to contractors. The IRP has already identified and gained experience with all aspects of the cleanup. Less oversight would be required to monitor contractor work. Mr. Cerar reiterated that contractors would not be given free reign, and would be responsible to the IRP.

Mr. Henry stated that the AEC would write the contracts, and grant contractors power. Mr. Cerar stated that the contract is a joint effort between the Installation and AEC, and when awarded will be APG's contract. AEC is not taking power away from the IRP, who will remain responsible for managing and monitoring the contract.

Mr. Henry stated that the IRP would manage and monitor the contract, asked if Mr. Stachiw would have reduced input and authority on contracts. Mr. Stachiw asked if contractors would be required to answer solely to the IRP, or if they would have to answer to the IRP and AEC. Mr. Cerar stated that Mr. Stachiw would be the only contracting officer's representative (COR).

Mr. Stachiw stated that the basic issue would involve instructing contractors to redo work. Mr. Cerar stated that the FFA requirement is that all involved parties, including the Army, regulatory agencies, the State, and community acceptance, must agree to documentation. The AEC is helping to transfer a better contract mechanism to the IRP, and not replace the IRP.

Mr. Henry asked how the contract mechanism would be so different, and better that it would save APG money. Mr. Cerar reiterated that PBCs are objective, and not prescriptive based. A contract for a site will be presented along with all possible data, to obtain competitive bids, technical approaches, and competition for completion. PBCs will attract innovative contractors, who will assume accountability for performance. Contractors will not replace Mr. Stachiw, and PBCs are not a personnel issue. Mr. Stachiw and his staff will manage the PBCs.

Mr. Stachiw asked that if it is so simple to change tasks in the direction of PBCs, then why couldn't the IRP be granted that flexibility. Mr. Cerar reiterated that granting the IRP the same flexibility may be an option, and PBCs would not be a one-size-fits-all solution. Options may include examining current contracts and competing those tasks among contractors, or changing current contracts to attract competition. There are many options that must be explored.

Mr. Cerar stated that it would be beneficial to complete work more effectively, and have cost savings, so that work could begin sooner on other sites. Mr. Stachiw concurred.

Mr. Henry asked if information posted on AEC's website claiming that APG would have one to two IRP personnel to oversee PBCs is wrong. Mr. Cerar stated that one to two personnel would be expected on an average facility, but APG is not an average facility. The majority of Army Installations have between one half to two people to manage their IRPs, with APG and Rocky Mountain Arsenal as the exception to the rule. The current APG staff of four and a half people project officers will remain after PBCs. There will be a reduction in personnel once project completion is reached.

Mr. Tim McNamara stated that there is a great deal of concern that the Installation ensure that once a contractor achieves regulatory closure at a site, and departs, the land should be usable for other purposes. Mr. McNamara asked how contractors, under a non-prescriptive contract, would be influenced to return to a site and conduct further characterizations to ensure that the site is clean. Mr. Cerar stated that under contract wording, contractors couldn't adversely affect Installation operations.

Mr. Henry asked how the situation would be addressed if contractors adversely affect future operations, and questioned if legal battles would ensue over whether contract objectives were met. Mr. Cerar stated that decisions will need to be made based on current use, and expected future use. Contractor work will need to be addressed if their proposals do not meet current use scenarios, and anticipated future use scenarios. The addressing of such issues would be no different than that of current contracts.

Mr. Stachiw presented a situation where a contractor, who won a contract despite a flawed proposal, might have exhausted their funding, and claimed site completion. Should the IRP not agree that completion had been reached, it would instruct the contractor to properly complete the site. Once the contractor had completed the site to the IRP's satisfaction, the AEC may not agree that completion had been reached. Dynamics such as this would not help to speed along schedules. Mr. Cerar stated that for a contract awarded in California, a contractor proposed a fence solution that would have been the best proposal value. The contractor's proposal did not win the contract, because the proposal was flawed for the site's requirements.

Mr. Stachiw asked what would happen if a contractor, who provided a good proposal and won a contract, ultimately veered toward a less satisfactory means of remediation. Mr. Cerar stated that the contractor would be held responsible, as part of the FFA requirement. The performance objective at a site, in accordance with the FFA, CERCLA, Resource Conservation and Recovery Act (RCRA) and other applicable requirements, is to reach a response complete remedy. All available site information will be fully disclosed to contractors, who will then offer bids.

Mr. Stachiw stated, for clarification, that contract specifications should include the requirement that contracts will not be simply awarded, and that payment will not be issued without IRP agreement. Mr. Cerar stated that performance objectives do not dictate exact methods of remediation, but require responsive completion in accordance with the FFA.

Mr. Kalbacher stated, for clarification, that the contract may not dictate to contractors exact cleanup methods, but through the FFA, the method would ultimately be dictated. Mr. Cerar concurred, and noted that additional work requested by the FFA would not require contract modifications. A great deal of time, effort, and cost would be avoided.

Mr. Stachiw noted that current contracts and contractors have caused very little loss in time or cost. Mr. Cerar stated that APG has a relatively better track record in contract-contractor relationships. Other Installations have taken approximately nine months to process modifications.

Mr. Stachiw stated that a problem was expressed concerning contract flexibility, and instances where funding would run low coupled with the discovery of unexpected problems. Under current contracting methods, contracts could be altered and modified to cover such problems. Mr. Stachiw asked where extra funding and solutions would come from under PBCs. Mr. Cerar stated that the same flexibility would be present under contract structure, and other solutions could be presented in lieu of line items. Contract wording can be constructed to account for sites that may contain unexpected problems, such as perchlorate, once a cleanup standard is established. Perchlorate is still a difficult problem, due to a lack of references, cleanup drivers, and MCLs. There may be situations where items, such as perchlorate, would be excluded purposefully.

Mr. Henry asked how line items could be moved in and out of a contract without causing contract modifications. Mr. Cerar stated that all line items are pre-negotiated. A contract may have ten to twelve line items, with pre-negotiated prices subject to a certain expectation that they will be executed within a certain time period. Each line item can be bought separately, and will already be negotiated.

Mr. Henry stated that new discoveries would not be covered if line items were pre-negotiated. The discovery of new sites cannot be inserted into a contract. Mr. Cerar clarified that if the IRP does not want to execute a particular line item during a specific year, it can be delayed for the following year, and separate contract.

Ms. Grochowski asked if the cleanup of areas with unexpected problems would be delayed if the budget had already been determined, and money was no longer available for funding. Mr. Cerar stated that there would be the flexibility to not execute a line item, and that the execution of all line items at the same time is discouraged. Funding for the IRP is not allocated at one time, but rather in quarterly installments throughout the year. Activities would be based upon contractor performance and the feasibility of beginning a line item. The spending plan would be scattered throughout the year, and there would still be flexibility.

Mr. Henry asked if items could be pulled off a contract to allot the designated money for the next year, even if the money will be used for another contractor. Mr. Henry asked for example, if a contract is signed for \$25 million in a given year, does Mr. Stachiw have the freedom to tell contractors that they will only be paid \$22 million due to line items that were pulled from the contract, even though the contract was signed for \$25 million. Mr. Cerar stated that the contract at Lake City of \$52 million was funded last year with approximately \$9 million, and will be funded this year with approximately \$10 million. Line items are paid over various years, instead of in a single year. Complete funding should not be allotted upon the award of the contract. Line items and options are used to spread the cost over several years. Contractor performance will not be as high with a large amount of money offered upfront, than spread out over time.

Mr. Henry asked if Mr. Stachiw could deduct money from a contract. Mr. Cerar stated that once the cost is decided, it couldn't be reduced.

Mr. Henry stated that even if the contractor's performance record is not broken three years down the road, the \$52 million cost still could not be reduced. As long as the contractor meets the milestones, he is still under contract, and his payment cannot be withheld. A contractor could sue the IRP if payment is withheld. Mr. Cerar stated that if the milestone is listed as an option, then the contract does not have to

be executed. Milestones that are line items must be executed. For example, if Mr. Stachiw puts money on a contract, and the contractor does not perform well, the money can be deobligated. However, if the funding is last year's money, when it is deobligated the funding is effectively lost. Such situations have lead to structured payments designed to reduce risks.

Mr. Roy Dietz inquired about the inclusion of options in the PBCs. Mr. Cerar stressed the importance of including options in the contract, and having the options well structured. While the options included in the contract do not have to be executed, contract line items must be executed. Mr. Cerar speculated that, for those PBCs already awarded, the contracts only include options that the Army will likely execute. Mr. Cerar stated that he has been impressed with the technical approaches put forward with existing PBCs. Initially Mr. Cerar was skeptical that a lack of incentive existed for the contractor to do a good job. A concern existed that a contractor would enter the site, do the bare minimum amount of work to achieve the cleanup goals, and then leave the site. Mr. Cerar stated that, in reality, a situation in which a contractor completes only the bare minimum amount of work would result in the contractor not being awarded any future contracts. Also, the bare minimum approach would limit the amount of profit that the contractor would gain from completing the work. The best way for a contractor to increase profits is to successfully complete the job in the most effective manner. Mr. Cerar added that ways to increase the effectiveness of the contractor's work would include putting together good documents that are concise and to the point and ensuring that more data is initially collected to prevent the need to perform multiple, costly data collections. Mr. Cerar stressed that, to date, AEC has been extremely pleased with progress made under existing PBCs.

Mr. Henry questioned how many PBCs awarded to date at other Installations have been completed. Mr. Cerar explained that none of the presented PBCs have been completed, but three contracts in the BRAC program have been completed. The BRAC contracts were awarded several years ago. Mr. Cerar added that the Fort Gordon contract is making good progress and will probably be completed ahead of schedule, within the next two years. The Fort Leavenworth contract has also been progressing well, and will likely be completed ahead of schedule. The remaining five contracts discussed were only recently awarded.

Mr. Henry asked for confirmation that the cost savings presented by Mr. Cerar are projected, and not actual cost savings. Mr. Cerar confirmed that all savings are projected and were based on the Government Estimate of approximately \$18.5 million, and a cost-to-complete of \$24.9 million. Mr. Henry pointed out that all total contract costs presented for the other Installations, with the exception of Lake City, are equivalent to what is spent on a yearly basis for the APG cleanup effort. Mr. Henry speculated that the contract costs are directly correlated to the complexity of the sites, and the total contract costs being presented for other Installations are equivalent to costs for cleanup for one Study Area at APG.

Mr. Henry expressed concern about the amount of uncertainty that exists with PBCs and the ability to rapidly implement contract changes if necessary. Mr. Cerar expressed understanding for Mr. Henry's concern, further explaining that the contract mechanism used at other Installations involved fixed price contracting with cost-cap insurance, a mechanism not likely to be used at APG. The reasoning that the same contract mechanism would not be used at Aberdeen is due to the complexity of sites, including issues with chemical warfare materiel, number of sites, overall acreage of the Installation, and the variety of uses of the sites. A more flexible type of contract mechanism will be required at APG. The contracts established for APG using performance goals should be partly based on lessons learned at APG and at other Installations.

Mr. Tim McNamara (DSHE) stated that, with regard to Mr. Cerar's statement about dictating the number of wells that will be installed, the regulatory agency generally reserves the right to determine the number

of wells that need to be installed at a particular site. Mr. McNamara questioned whether the regulatory agency, in accordance with the FFA, or the Army as COR, has the right to establish the number of wells to be installed. Mr. Cerar explained that if the proposal is found to be flawed and not meet the operational expectations, upon review of the contract proposal the Army, as COR, has an obligation to notify the contractor of the flaws. The majority of the comments that are received regarding the contracts generally come from the regulatory agencies.

Mr. McNamara expressed concern that the regulators would serve as the sole “policeman” of the site and the contract process. Mr. Cerar stated that, with the new contract mechanism, there would likely be less technical review. For example, the number of Health and Safety Plans for a site may be reduced to one, in an attempt to streamline the process. Mr. Stachiw added that currently some sites have Generic Health and Safety Plans already in place. Mr. Stachiw stated that problems still exist with the Biological Technical Assistance Group (BTAG) and the Department of the Army (DA) in terms of getting RODs signed in a timely manner. If APG had the flexibility to have RODs signed at a lower level, some of the sites and projects could have been completed two or three years ago, reducing schedule and cost impacts. Mr. Stachiw stated that the contract mechanism would need to be extremely flexible in order to streamline the process. He speculated that a new PBC mechanism would work in the same fashion as current APG contracts. The contractors would be paid based on percentages of the work completed as opposed to documents being completed. The contractors would be paid on a fixed price basis and they would most often meet their goals without cost overruns. Mr. Stachiw stated that in some cases, the current contractors have given money back to the IRP, showing a great relationship between the contractors and the government. Mr. Stachiw stressed his concern that, under a new contract mechanism, the same issues may remain with regard to getting documents signed in a timely manner.

Mr. Cerar stated that, in most cases where PBCs have been awarded, initially the Installation representatives expressed concerns regarding the process. After working under the contract for a period of time, those Installation representatives have expressed their support for the PBCs process.

Mr. Kalbacher inquired as to the role of the civilian staff at APG. Mr. Kalbacher asked Mr. Cerar to clarify changes are foreseeable in the types of activities that the civilian environmental staff will be performing in the future. Mr. Cerar explained that the civilian staff would be doing less contract scoping including awarding contracts and contract modifications. The staff will instead be spending more time monitoring performance of the contract, deliverables, evaluating the accuracy of information in the documents, evaluating acceptability of actions and potential impacts on operations, and evaluating the acceptability of actions to regulators and other stakeholders. The staff will also retain some of their current responsibilities including ensuring site access to the contractor, and access to installation personnel. In general, the civilian staff will be performing less contract writing and negotiations, and more monitoring of work product schedules and performance.

Ms. Grochowski questioned which entity would be responsible for completing the writing of the contracts. Mr. Cerar explained that the contract writing would be completed by an Army team consisting of one or two representatives from Mr. Stachiw’s staff and AEC representatives, including some people that have worked on PBCs at other locations. In general, the contract would be prepared as a joint effort with APG and AEC. Input regarding the contract issues will also be solicited from the RAB and the regulatory agencies. Mr. Cerar provided an example from an existing PBC, stating that during last year, a representative from the State sat in and reviewed the technical proposal to provide input to the Army as to what was technically acceptable for the site. Mr. Cerar added that, for APG, as contract proposals come in, there would be an opportunity for the State and EPA to review the proposals and provide input to the Army.

Mr. Henry expressed concern over Mr. Cerar's statement that the comment process will not change. Mr. Henry quoted a statement made by Mr. Cerar in an article from the *Baltimore Sun*: "'Some of those documents seem to go on forever", he said of comments taken from regulators and the community as projects progress". Mr. Henry asked if Mr. Cerar was saying that the community and regulators told AEC that the documents are going on forever, or if Mr. Cerar was saying that the documents, from AEC's perspective, go on forever due to regulatory and community participation as the project progresses. Mr. Cerar clarified his point, stating that a good document should be produced initially. Stressing that he was not speaking about APG projects, Mr. Cerar reported that, at other Installations, contractors have brought in a product that results in repetitive-type comments from the regulatory agencies and the public, and the product does not address corrected deficiencies. Essentially the documents being submitted were insufficient from the beginning. In those situations, the documents get shipped back and the contractor is paid to respond to the comments, and the contractor does less than an adequate job. Then the situation arises that the agencies have to comment again on the same document. The result is that a document that should have taken two to three months to get through the review process and be approved takes six to eight months due to the contractor not addressing comments and providing proper documentation. Mr. Cerar stated that, in situations as previously described, the Army is at risk, as a result of the contractor not producing a quality document from the beginning.

Mr. Henry requested that Mr. Cerar speak specifically about the contracts at APG and any associated documentation problems that may exist, because Mr. Cerar is considering changing the contract mechanisms at APG. Mr. Cerar explained that AEC's intent was to sit down with APG to discuss existing contracts and evaluate applicable types of contract mechanisms. Unfortunately, the opportunity has not come available to have the discussion with APG, but a meeting is planned for the near future to discuss current contract issues and possible changes to contract mechanisms in the future. Mr. Henry stated that AEC is in charge of the process, and expressed concern that such a meeting has not yet taken place. Mr. Cerar reiterated that the discussions with Mr. Stachiw and APG will be completed, and AEC will return to the RAB with an update after the meeting with APG takes place.

Mr. Henry questioned the anticipated timeline for implementation of new contract mechanisms at APG. Mr. Cerar explained that new contract mechanisms are expected to be awarded during FY04. Mr. Henry expressed concern that new contract mechanisms would be implemented, considering AEC has not addressed manpower at MDE, held no discussions with EPA Region III, and held no discussions with the IRP at APG. Mr. Cerar agreed that detailed discussions have not been completed, but stated that he has talked with both Mr. McNamara and Mr. Stachiw regarding new contract mechanisms. Mr. McNamara agreed that a discussion was held to introduce the concept of changing contract mechanisms, but DSHE was not involved in any of the planning phases of the process. Mr. Cerar stressed that a new contract may be awarded in FY04, but the work would not begin until FY05. Mr. Cerar explained his expectations are realistic, and that, at this stage and given the work that remains, he is targeting an FY04 award, with work initiating in FY05.

Mr. Henry requested that, when Mr. Cerar returns to the RAB to update the contract mechanism process, he should talk about cost growth and overruns that may occur at APG. Mr. Henry explained that, at APG, a cost growth may involve the discovery of perchlorate or explosives, and costs growths are beneficial in that regard. Mr. Henry stated that, with regards to contract overruns, he would like to see evidence that the IRP contracts have had overruns on a consistent or moderate basis. Mr. Henry would also like to discuss how AEC has contributed to those overruns. When discussing sampling within the Aberdeen Area and Ecological Risk Assessments, it appears that AEC has not been particularly assisting in getting that work moving forward. Mr. Henry expressed his opinion that it appears AEC is partly responsible for some of the overruns that have occurred at APG. Mr. Henry stated that, if Mr. Cerar is able to say that costs are going up due to cost overruns and some peoples' tendencies to not want to close out a contract,

he would like to speak about specifics when Mr. Cerar returns to the RAB. Mr. Cerar agreed that the requested issues would be addressed during his next visit to a RAB meeting.

Mr. Stachiw informed the RAB Members that Mr. Cerar has agreed to return to the RAB to further discuss changes to existing contract mechanisms at APG. Mr. Stachiw encouraged anyone who would like to speak to Mr. Cerar personally to do so during the break. Mr. Cerar thanked everyone for sitting through the presentation and ensuing discussion. Mr. Cerar stressed that the contracting is a very important issue to both the Army and the community. It is AEC's responsibility to get the sites cleaned up, making the best use of the dollars available. It is AEC's perspective that more value can be obtained from the contracting mechanism, resulting in other sites being addressed sooner.

Mr. Henry stated that the RAB would contact Mr. Fatz about his memo and AEC's approach with regard to the similarities and differences between the two. Mr. Henry stated that an internal Army memo also exists stating that AEC reported progress on remedy-in-place and response complete based on the awarding of contracts, not necessarily based on the finalization of cleanup. The memo also stated that site progress had been achieved by combining multiple sites into one site for tracking purposes. Mr. Henry stated that a response to the memo came out, possibly from Mr. Fatz's office, stating that those types of progress reports will not take place under GFPCs. Mr. Henry asked for assurance from Mr. Cerar that this apparent effort by AEC is not going to continue, and that everyone is on the same page with regards to the memo. Mr. Cerar responded that the Army position is that, regardless of the financial pairing of the sites, the sites will be kept open until the response is complete. In an attempt to make tracking easier from a financial perspective, the fiscal requirements may be combined into a single site. Physical sites will not be closed out until a decision document is prepared and the cleanup actions at the site are complete. Mr. Cerar explained that the effort was put forward to minimize the financial tracking burden and simplify the Army's management system as opposed to separately handling each site. Mr. Cerar added that, within the BRAC program where the property will be transferred to a third party, the intention of the Army is to close out the property.

IV. CLOSING REMARKS

At 9:15 p.m., after confirming that no one present had further questions, Mr. Stachiw adjourned the meeting. The next APG IRP RAB Meeting will be held on Thursday, 29 January 2004 at 7:00 pm in the Edgewood Senior Center. The perchlorate update and O-Field Study Area Update, not discussed at the 4 December 2003 meeting due to time restrictions, will be the topics of discussion.