

SUMMARY OF CAPP STAKEHOLDER WORK GROUP MEETING OF MAY 7-8, 2002

Acronyms:

CAPP – Cooperative Assessment Pilot Project
NOAA – National Oceanic and Atmospheric Administration
SWG – stakeholder work group
PRP – potentially responsible party
NGO – Non-Governmental Organization
CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act
NRD – natural resource damages
NRDA – natural resource damage assessment
EPA – Environmental Protection Agency

On May 7 - 8, 2002, NOAA hosted the first meeting of the combined stakeholder work group (SWG) for CAPP in Silver Spring, Maryland. Linda Burlington of NOAA's Office of General Council for Natural Resources facilitated the meeting. Eli Reinharz of NOAA's Damage Assessment Center and Mary O'Connell of NOAA's Office of General Council for Natural Resources took the notes from which this summary was compiled. A list of the SWG members that participated in the meeting is attached.

NOAA began the meeting by requesting that the SWG engage in a full and open discussion of concepts and issues related to cooperative assessments. NOAA pointed out that all aspects are open for discussion since no firm decisions had yet been made on how the CAPP process might work. NOAA also stated that one of the main purposes of the meeting was to solicit projects (sites) to further explore the feasibility of CAPP.

The major issues discussed were:

- Incentives for participating in CAPP
- Information sharing
- Coordination with response agencies
- "Conservative" approach to assessments
- Settlements
- Public involvement
- CAPP documents
- CAPP project ideas
- Next steps

Finally, NOAA requested that participants keep in touch with and direct questions to NOAA's CAPP team: Eli Reinharz and John Kern of the Damage Assessment Center, Ron Gouguet from the Coastal Protection and Restoration Division, Russ Bellmer of the Restoration Center, and Linda Burlington of the Office of General Counsel for Natural Resources.

II. Incentives

The facilitator asked what incentives might persuade the various parties to enter into a CAPP.

Industry Incentives

Industry participants offered quite a number of incentives for CAPP. Some participants noted that the threat of a law suit or other legal pressures would make some companies want to get involved with the trustees at sites. One participant suggested that PRPs who participate in CAPP would have the opportunity to pursue non-participating PRPs. Most of the participants pointed out that the biggest incentive would be the opportunity to resolve liabilities and reach closure at sites.

Some industry participants noted that the intent of CAPP is to allow PRPs a greater participation in the assessment and restoration process. A process that affords PRPs this opportunity would result in greater flexibility and facilitate PRP motivation than the traditional NRDA process.

The industry participants stated that another important incentive for CAPP is the potential to reduce costs. Cost savings would result from the ability to conduct work appropriate to the circumstances of the site without the additional transaction costs associated with “litigation-quality” concerns. Participants also pointed out that dealing with sites sooner rather than later would help hold down both damages and costs. Finally, one participant from the insurance community noted that being able to reduce liability exposure may also reduce insurance costs. This participant pointed out that CAPP would make good business sense.

The industry participants stated that the ability to reduce uncertainties associated with liabilities is another real incentive. Uncertainty can be reduced if the parties can better determine needs and objectives, reaching agreement through the process. The participants noted that PRPs can better inform their management regarding the timing, scope, and budget for a site. Finally, the participants noted that less time would be spent arguing over assumptions, data, and methods, allowing the parties to focus better on restoration.

The industry participants see CAPP as an opportunity to receive positive recognition that both trustees and PRPs can come to a mutually beneficial outcome. The participants pointed out that such recognition could come through joint press releases. Some of the participants suggested that NOAA might set up something like an “Excellence Award” to acknowledge those PRPs who are proactive in a cooperative process to focus on environmental restoration. The participants stated that they would also like recognition through good “green” press stories, or at least objective and fair press, from the environmental community. They see CAPP as an opportunity to enhance a PRP’s reputation by turning an unfavorable situation into one that is

ultimately favorable to all. The participants agreed that CAPP should be a way to make cooperative assessments better, faster, and cheaper. They felt that by putting money into restoration rather than litigation they can generate success stories that would encourage others to consider CAPP.

One industry participant explained that the SEC requires companies to forecast or “book” environmental liabilities once the company has satisfied two conditions: 1) the liability is probable, that is, there is a reasonable certainty that the liability exists or is known, and 2) the liability is “estimatable” (quantifiable), that is, there is a reasonable certainty about either the short- or long-term costs associated with it. There is some flexibility in how this requirement can be approached and will vary among companies. This liability may be borne by corporate headquarters, by individual business units within the corporation responsible for the liability, or collectively by all the business units of the corporation regardless of which unit is liable. Some companies have developed an internal self-insurance entity in which individual business units contribute some monetary share periodically to such future potential liabilities.

Environmental liability impacts a company in two ways. First, the costs are accrued, or set aside, once the two conditions above are met. This money is earmarked for this purpose and is no longer available for other purposes. Second, the accrued amount counts against earnings. It is factored into the bottom line for that year, or quarter, unless there is a scheduled payout that specifies when the money is to be paid.

One industry participant explained that his company accrues money for environmental liabilities based upon long-term operation and maintenance (O&M) costs, for example, pump-and-treat costs for groundwater, or when payouts for activities are known and spread out over a number of years. This industry participant stated that his company uses an estimate of seven years for long-term O&M costs, therefore it uses a \$7 to \$1 ratio of accrued costs to liability amounts. Therefore, for each dollar that a company can eliminate in O&M costs or long-term activities, accrued costs are reduced by seven dollars.

Other companies may use shorter or longer time periods, and may not accrue this money in the same way. However, each company must accrue or otherwise account for the liabilities once the two conditions listed above are met. Therefore, there is a strong incentive to monitor and reduce expenses whenever possible. One participant noted, however, that NRD might not be included in these environmental liabilities. This participant also noted that companies use their judgment as to when to book a liability. Another participant explained that liabilities that cannot be quantified (such as NRD) cannot be booked, but that the recent case of ENRON may bring increased pressure to accurately reflect liabilities.

Cooperative assessments under CAPP may offer the opportunity to reduce tying up substantial funds by reducing uncertainties and enhancing predictability. The insurance industry, in particular, may be able to free up a substantial amount of the liability exposure in a cooperative assessment.

There was also some discussion on the ability to project costs for a site. Some participants indicated that it may be possible to apply some multiplier to NRDA costs compared to known costs of past CERCLA sites. Other participants thought such a multiplier would not be possible. One participant suggested that, while such projections may be more art than science, it is possible to establish reasonable cost boundaries. Another suggestion was that it might be possible to develop projected costs on a regional basis since the cost of restoration, and to some extent the types of resources affected, varies a great deal across the country.

Finally, the industry participants suggested that NOAA contact representatives of companies that are not members of the CAPP SWG to ask them what incentives might motivate them to volunteer a site.

Trustee Incentives

While many of the incentives mentioned by the industry participants may also apply to trustees, the facilitator asked trustee participants what additional incentives they might have. The major incentive mentioned by the trustee participants was availability of funding for an assessment, either costs provided upfront by the PRP or prompt reimbursement of trustees' costs at a site.

Several participants noted that, while PRP funding will certainly help address site needs, there may be other issues outside the control of the trustee working at a site, such as timing to hire staff or other management issues. One trustee participant stated that a real issue for many trustee agencies is that they do not have a pot of money, such as the CERCLA Superfund, that they can depend upon to hire staff or contract out to conduct site work as appropriate. This participant asked if companies could assist in some way to allow trustee agencies to build the infrastructure needed for NRDA. Some industry participants indicated that they may be able to support legislation to aid with this issue.

The facilitator asked all participants to provide examples of funding agreements that have worked well.

NGO Incentives

The facilitator asked the NGO participants what incentives they would like to see. The NGO participants mentioned funding as an issue for them as well. They stated that other incentives would include early involvement of broad-based NGOs and local citizens at sites. The participants suggested that parties might set up a Citizen Advisory Committee for a site and make use of existing remedial outreach groups. Finally, the participants noted that the parties should hold public meetings throughout the process.

III. Information Sharing

The facilitator asked the participants their views on the issue of sharing information during a cooperative assessment. The trustee participants noted that the public has a right to know what is going on at a site and the trustees have the obligation to report to the public. The government participants believe that scientific information must be shared. The trustees pointed out that if one party is withholding relevant site-related information over possible litigation concerns, then the process cannot be considered cooperative.

The industry participants noted that undue delay in releasing information may sacrifice public's understanding of site issues and confidence in the process. These participants stated the need to balance transparency with an understanding of the information before releasing such information. They noted that it is important to build the appropriate public expectations so as not to undo any progress at a site. They suggested that the parties involved in a site may consider holding joint public meetings.

The participants indicated that the real challenge in information sharing is interpretation. They noted that it is important to start with the appropriate questions and use sound, relevant information that should be available to all the affected parties. The parties can then determine what the information means. All participants acknowledged that data interpretation must be scientifically defensible.

The participants then discussed general types of information that would not be released. The trustee participants pointed out that they have an obligation to make public information they receive, generally through Government-in-Sunshine laws or the Freedom of Information Act. However, they noted that there are certain types of information that they are not allowed to disclose. The SWG recognized that certain business information would generally be protected, such as trade secrets and confidential business information. Other information that is protected from disclosure might include interpretation of data, legal opinions, strategy analyses, attorney work product, and attorney-client communications. Information concerning the location of certain tribal cultural resources also needs protection, generally through the Archaeological Resources Protection Act. Data involved in third party litigation generally would not be disclosed and can be protected by third party confidentiality agreements.

One of the industry participants suggested that preliminary information on potential impacts to public health should not be released until the data has quality Assurance and control criteria and after more community-specific sharing to avoid any public misperceptions.

A question was also raised concerning the enforceability of confidentiality agreements. The participant also wondered whether potentially sensitive information might be protected in the context of settlement negotiations. Basically, the SWG had no clear answers to these questions since such issues are addressed on a case-by-case basis.

One NGO participant pointed out that the public needs to know and understand information from both industry and the government as early as possible in the process if public support is to be built into the process. This participant explained that NGOs and the public are less likely to support the process as more information is withheld.

IV. Coordination with Response

The facilitator noted the importance of coordinating NRDA efforts with response actions, e.g., sharing information, participating in planning response actions, etc. The facilitator asked the participants to share their concerns in this regard.

All participants thought that NRDA concerns should be integrated as early as possible with response actions. Trustee involvement early on in the response process is a public obligation of the trustees. Participants pointed out that coordination between the Remedial Project Manager (RPM) and trustees is required under CERCLA. It was also pointed out that early coordination among all parties would result in a greater efficiency in time and costs and would enhance the likelihood of satisfying all entities at the same time.

Some participants questioned how trustees could conduct an NRDA action without the participation of the response agencies. Other participants noted that it is possible to take such actions where there is no response action being conducted or when one could reasonably anticipate what response actions will be taken. One other participant suggested that the parties at a site should work to encourage cooperation with the response process.

Various participants indicated it is the duty of trustees, response agencies, and PRPs alike to use their collective resources to ensure that response-restoration collaboration occurs. It was suggested that PRPs should request/demand trustee involvement in response actions. While some trustee agencies might have limited capacity that may not allow them to participate in all response actions given agency capacities, they should participate in those response actions that have the greatest natural resource impact.

There was some discussion on the extent to which ecological risk information is useful and can be appropriately integrated with NRDA concerns. Several participants stressed that trustees might incorporate their information needs into the response information gathering. One industry participant indicated that ecological risk information is an indication of potential for effects, but not necessarily a demonstration of effects as is the case in injury assessment in NRDA. This participant cautioned that a finding of some "risk" does not necessarily indicate injury, but that a finding of "no risk" probably does mean there is no current injury, assuming an appropriate risk assessment was performed. If information resulting from ecological risk assessment is insufficient, the parties will need to supplement site efforts with additional work or analysis to address natural resource impacts.

Various participants noted that NOAA should consider bringing EPA into the CAPP process to influence coordination enhancement with response. One participant cited that perhaps we can update the EPA coordination paper with trustees as a means to make that directive on coordination more robust and influential. Another participant suggested developing guidance for EPA on the issue of coordination with cooperative assessments.

V. Conservative Approach

The facilitator asked for input on the “Reasonable Worst Case” approach to estimating restoration needs. One NOAA participant explained that the RWC approach was developed to balance the relative costs of conducting additional studies above and beyond available information compared to applying conservatism when analyzing existing data. RWC was not designed to apply conservatism at every step in the process or for every resource at a site. Doing so would propagate error and inflate restoration needs unjustifiably. Conservative assumptions are applied only where there is sufficient confidence in and agreement about information to make a reasonable call on the appropriate type and scale of restoration.

There was some discussion regarding what aspect of the environment to focus on. Some participants suggested focusing on the units of the environment that are reflective of the real world and can best be appropriately scaled and make the best sense, which, in most cases, will be habitat. Other participants stated that the parties should not forget the actual species adversely affected, since such impacts are useful to determine injury. Also, it is important to have such species information to determine whether injured species will, in fact, be benefited by any proposed habitat restoration.

One of the NOAA participants indicated that there were a number of steps to the RWC approach. The first two steps include collecting whatever information is available and relevant that meets appropriate Data Quality Objectives. The second step is to determine whether any meaningful studies are needed to supplement existing information to further reduce uncertainties. One NOAA participant highlighted that the availability of restoration options should be evaluated during the process itself. By doing so, the cost of additional studies to reduce uncertainty about the level of injury could be managed by making conservative assumptions. An industry representative commented that the need for additional studies must be scientifically defensible.

Some participants pointed out that the RWC approach would not be appropriate for cultural resources. The participants explained that such resources, and their services, are difficult to quantify, especially where a particular impacted geographic location or feature cannot be restored.

Participants noted that the parties may need to perform studies or sensitivity analyses up front to set bounds on the uncertainties. Early PRP involvement in such cases is

important and, in fact, the PRP and trustees should work together to design what studies are needed.

In addressing the need for additional studies, several participants noted that peer review may be a cost-effective measure to address concerns related to the need for additional studies. Various participants suggested possible conditions for the use of peer review, including:

- Ensuring that the PRPs and trustees agree on the need and use of peer review as soon as the need arises;
- Bringing in qualified experts who are truly independent;
- Inserting peer review where there is truly an impasse that cannot be resolved through the use of experts; and
- Ensuring that the use of experts is targeted to the specific issue.

One industry participant indicated that there are other tools that could be used to further build confidence at a site, including using best professional judgment and preliminary scoping. Various participants indicated that no one approach or tool is appropriate in all circumstances, such as use for cultural resources or threatened/endangered species. Whatever approach or tool is used, we should look to those that can address issues most readily and help to build confidence as the process continues. Issues in which disagreements prevent making progress can be put off while working on those issues where progress is possible to avoid absolute impasses. These seemingly intractable issues may not be so problematic later as other issues are resolved and progress is made toward identifying and scaling restoration options.

VI. Settlements

The facilitator asked the participants to discuss any issues they might have with settlement documents and the settlement process in general.

One issue the participants discussed was certainty in the resolution of liability. One important component of this issue is the scope of a settlement as to issues and parties. The participants suggested that the best outcome for a settlement would be a resolution of all applicable statutory liabilities at a site. One participant questioned how such a global settlement is possible if a response action is not yet planned or underway at a site. In response, another participant pointed out that the PRPs and trustees should notify the response agency as early as possible of the interest to conduct an NRDA to see if the response agencies would agree to consider response actions at the site at the same time. Another participant suggested that, as an alternative, the PRPs and trustees may be able to conduct primary restoration of contaminated media sufficient to address any concerns of the response agencies, so that no further action would be necessary on the part of the response agencies. One industry participant pointed out that some PRPs would conduct the necessary cleanup to limit any future risk at the site. Another participant suggested that, if cleanup might be accomplished, the parties should notify other potentially affected parties so that appropriate settlements can be accomplished. One participant asked if a PRP could receive extra credit against

potential response liabilities if restoration is conducted beyond that called for by the trustees. Another participant explained that such credit is rare since response actions are generally handled in the context of permitting, which is outside the context and responsibilities of the trustees. Other participants noted that partial settlements may be agreed to on a case-by-case basis, particularly where there is no long-term remedial action anticipated.

Another component of seeking certainty in settlements is the success of the restoration. One participant suggested that settlements should contain minimal reopeners that would be limited to new, substantive information at a site. Industry representatives commented that industry does not like reopeners because closure of NRDA liability becomes an uncertainty. Several of the participants noted that the likelihood of success of a restoration project is an important factor for both PRPs and trustees. Some of the trustee participants suggested that settlements should address such things as long-term monitoring, corrective actions, and funding to address contingencies to ensure that the restoration is a success. The industry participants pointed out that, while success of restoration is the most important factor to them, they also want to resolve restoration in a reasonable time frame. Therefore, they suggested that it is important to agree upon performance standards, to plan the restoration considering a wide range of factors that would contribute to the success, perhaps offering additional, “excess” restoration to allow for any potential failure in the restoration, and set up the monitoring and corrective action provisions to allow closure for the PRPs.

The participants then discussed the form of settlements, noting that consent decrees are the most likely form. One participant pointed out that a consent decree sets the bounds of the PRP’s liabilities and provides closure. This participant added that a consent decree also provides trustees protection from changing corporate management, ownership, and policy. Some participants agreed that the CAPP SWG members might work to develop a model consent decree in which the parties could address, up front, such issues as reopeners, performance standards, and monitoring, as well as procedures for creating conservation easements or endowments to NGOs for restoration implementation.

The participants then discussed the role of attorneys in the CAPP process and settlements. The participants noted that, while NRDA is a legal process, parties should remember that both the technical and legal teams have their respective roles in the process. They noted that science should drive the assessment process. The technical team assesses all relevant site information, develops restoration plans, and determines what would be a successful outcome. The legal team facilitates the development of the appropriate legal mechanisms to accomplish the outcome determined by the technical teams. Some of the participants suggested there should be training in cooperative NRDA for industry attorneys.

Finally, the industry participants suggested that they should receive acknowledgment for successful restoration. This acknowledgment should be in any post-settlement press

releases or any NGO press on the case, as appropriate. Most of the participants agreed that the parties need to celebrate successes in a very public manner.

VII. Public Involvement

The facilitator asked the participants for particular issues of concern on the topic of public involvement.

One trustee participant mentioned that all parties should share and participate equally in public engagement events, e.g., public meetings. One industry participant noted that PRPs knowledgeable of NRDA want public involvement. Another industry participant pointed out that PRPs will act in the company's interest, which may include public involvement.

An NGO participant noted the concern that the process must be as transparent and rationale as possible, allowing NGOs to better support the cooperative assessment process. One participant noted that it may be useful to form citizen advisory committees for the purpose of public scoping on particular incidents. Such committees have proven to be very effective in various environmental contexts.

A NOAA participant noted that piggy-backing onto EPA's public information distribution process for remedial actions may also be useful. This participant noted that regardless of what process may be available, use of public involvement mechanisms and approaches should be flexible. One participant suggested that web sites may be a good way to keep the public informed, noting that NOAA's Commencement Bay web site is a good example of dissemination of information on a site (see www.darcnw.noaa.gov/cb.htm).

Regarding the mechanism of public involvement, one participant pointed out that one size does not fit all circumstances and that no single blanket approach will work at all sites.

VIII. CAPP Documents

NOAA provided a draft "framework" for the CAPP process to promote discussions. The facilitator asked for opinions on the draft framework and whether there are other documents that should be considered.

The discussion among the participants addressed not only the draft framework, but also the need for several other types of documents.

First, the participants agreed that the SWG should develop a "marketing" piece on CAPP for management and the general public. This one- to two-page piece would serve as either a stand-alone document or as a summary of the framework for CAPP.

Second, there was a wide-ranging discussion by the participants on a “framework” document for CAPP. The general view of the SWG was that such a document should be flexible rather than prescriptive. Some participants suggested that the document should consist of a short list of basic operating principles that allow for numerous options that can be exercised given the circumstances of a particular site. Other participants thought that a more detailed documentation of the CAPP process would be useful to inform management of the process. Other participants stated that the document should better emphasize the incentives for participating in CAPP, define the meaning of cooperation, and explain the benefits of CAPP versus the traditional NRDA process. The consensus of the SWG was that the framework document should be a flexible and include more narrative language that describes the substance of CAPP, providing guiding principles in a “user-friendly” manner. The document should also avoid the use of prescriptive terms and the appearance of a “regulatory” text.

Third, the SWG felt it would be very useful to identify the approaches and tools that may be used in a cooperative NRDA process. Parties could then pick and choose among the approaches or tools on a site-specific basis. NOAA has provided some of these materials on the CAPP web site. This supporting guidance would include sample documents, such as examples of funding agreements, cooperative agreements, or a draft model cooperative agreement.

Fourth, the SWG agreed that it is the responsibility of all SWG members to identify or develop articles on cooperative assessments for publication in various vehicles. As an example, it would be useful to portray the viewpoints of all parties on problems, solutions, and common elements for cooperative assessments in which they have been involved. These articles would describe the advantages and pitfalls from the perspectives of both sides involved in a cooperative assessment. Other articles might describe an assessment performed as a “non-cooperative” experience compared to a successful cooperative assessment. These articles could have a single author or could be co-authored by industry and trustee representatives and could include contact information if the authors are willing to act as mentors for cooperative assessments. One participant noted that Association of State and Territorial Solid Waste Management Officials is producing a compendium of cooperative assessments that would be shared with all.

The SWG also agreed that the members should identify or develop real success stories of cooperative assessments, especially those of CAPP projects. Having real examples, written by CAPP participants, available to others is important in promoting CAPP.

The participants agreed that documents authored by the SWG or multiple parties would be more persuasive. The participants also agreed that the focus of all articles should be restoration. The participants suggested numerous vehicles for publication, including distribution channels available to the SWG members. NOAA also will post all relevant documents on the CAPP web site. The participants suggested contacting various news and trade groups to inform them of CAPP as part of a public outreach effort. Groups or organizations to contact suggested by participants included the International

Association of Fish and Wildlife Agencies, the Wildlife Management Institute, which hosts the North American Wildlife Conference, the National Association of Attorneys General (NAAG), and other professional organizations. Certain publications that could be targeted for articles could include professional journals, the NAAG Enforcement Journal, NGO journals, trade newsletters, and newspapers or newsletters of general circulation. NOAA asked the participants to suggest additional outlets.

IX. CAPP Project Ideas

The facilitator asked for input on CAPP project considerations.

The facilitator listed the following 5 criteria that may be considered.

- Injury to a trust resource;
- Significance of the injury to a trust resource;
- Potential to accomplish successful restoration;
- Cost-effectiveness; and
- Commitment to the CAPP process.

Additional criteria that were offered in the stakeholder meetings held during 2001 include:

- A body of knowledge about the project area;
- Well-defined contamination footprint and injuries/losses;
- Well-defined and -documented response action (i.e., planned, on-going or completed), or ability to integrate investigation with willing, experienced response agencies;
- Less controversial resources/services, e.g., no endangered/threatened species issues, no cultural/religious issues, etc.;
- Relationship between contaminants and injury/loss is reasonably understood;
- Availability of restoration with a connection to the injury;
- Readily scalable injuries and restoration;
- High probability of restoration success;
- Site that is regionally representative;
- Limited human health concerns;
- Limited public controversy or, alternatively, strong public support;
- Single or small number of clearly identified and willing PRPs;
- If multiple PRPs, clear allocation of liability and good coordination;
- Solvent PRPs;
- PRPs who are willing to share information on the project with other parties;
- Limited number of and willing, coordinated Trustee involvement; and
- Experienced parties, e.g., Trustees, PRPs, contractors, etc.

Additional project criteria offered by the participants that may be considered include:

- Sites in overburdened communities that have not benefited from restoration.
- Sites located in a trustee-friendly EPA region;
- No federal facility involvement; and
- Parties know there is injury;

One participant provided context to these criteria by stating these are ideal criteria, not all of which can or should be considered at each potential site. Some of the participants noted the critical criteria may include:

- 1) Do we have parties willing and committed to cooperative assessment;
- 2) Do the trustees have jurisdiction at the proposed site?; and
- 3) Is the impact at the proposed site sufficient for the potentially affected parties to be involved?

Participants discussed the role of the SWG in CAPP projects. The SWG agreed that the SWG would be observers of a CAPP project and act as mentors for those involved in the project, if asked. However, under no circumstances would the SWG direct or participate in the assessment and restoration process at a project. Through observing the CAPP project, the SWG could provide input on how to better refine the CAPP process. The manner by which to disseminate lessons learned resulting from the CAPP project will be left to the discretion of the parties involved in the project.

The goals of a CAPP project, in addition to reaching a successful restoration, were described as testing the tools and concept of CAPP, as well as being used to promote cooperative assessments. The discussion turned to defining the measure of success for CAPP projects.

One trustee pointed out that a CAPP project would be deemed a success if liabilities are resolved, the PRP has been engaged throughout the process, and restoration is successfully completed. Other trustees stated that successful restoration and resolution of liabilities are major criteria for success. Participants also noted that a CAPP project would be deemed a success if the parties came out of the process willing to promote CAPP.

Industry participants agreed with these criteria. They also noted that, from their perspective, other indicators of success were that the process was improved and streamlined, resulting in reduced costs, a measure of predictability in the outcome, and no litigation. They stated that, if the process was not derailed and an appropriate outcome achieved, the PRP should be viewed in a more favorable light at the end. Generally speaking, there was a sense that a CAPP project would be successful if all participating parties felt that it was successful and that they would want to handle a similar site with the same process.

The facilitator asked the SWG whether the parties should address CAPP projects not currently being addressed through NRDA, or also consider on-going assessment sites.

The general focus of the discussion was that the parties should focus on new sites not currently being addressed to test the CAPP concept in earnest.

There was a discussion on how long the SWG might consider being involved in a CAPP project, which could go on for several years. Some participants preferred to try for a quick win rather than a process lasting up to five years. Other participants then raised the question of whether to observe the entirety of a CAPP project or consider only various stages of several projects. The general feeling of the SWG was that this decision is one that would have to be site-specific, but that it would be preferable to follow the full life cycle of a CAPP project to demonstrate success of the concept.

The facilitator asked the participants for ideas on possible CAPP projects. A number of project ideas were offered that would be vetted within the companies before being offered under CAPP.

X. Next Steps

This first meeting of the SWG was considered a great success. All participants were engaged in the open and productive discussions. The commitment to CAPP (i.e., to make cooperative assessments better, faster, and cheaper) is reflected in the fact that the participants took the time and effort to engage in these discussions, and this commitment is greatly appreciated by NOAA. This summary is being distributed to the SWG, as well as to the larger stakeholder communities. NOAA will also post this summary on the CAPP web site.

The SWG agreed to:

- 1) Develop the documents identified in section VIII of this summary, allowing for a flexible approach to cooperative assessments;
- 2) Discuss and vet the project ideas from the meeting; and
- 3) Continue the dialogue in another SWG meeting in September.

The agreement to conduct these activities demonstrates the commitment of the SWG members to further explore and promote CAPP.

The SWG agreed to come together again on September 24-25, 2002, in Seattle, Washington. More details will follow on this September meeting and will be posted on the CAPP web site.

CAPP Stakeholder Work Group Attendees
May 7-8, 2002

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