



## **Good Neighbor Environmental Board (GNEB) Teleconference**

**November 3, 2009**

**1:00-3:00 p.m. EST**

### **Summary**

Dolores Wesson (U.S. Environmental Protection Agency [EPA], Office of Cooperative Environmental Management [OCEM]), Designated Federal Officer (DFO) for the Good Neighbor Environmental Board (GNEB), welcomed participants and noted that the purpose of the call was to discuss the advice letter on the border fence and the 13th GNEB Report to the President and Congress.

Dr. Paul Ganster (San Diego State University), GNEB Chair, welcomed the staff members from the Department of Homeland Security (DHS) who were present on the call. The first item on the agenda will be to review the advice letter, and the second will be to review the content of the 13th report. The report discussion will include restructuring and assignments as well as next steps.

### **Discussion of the Advice Letter on the Border Fence**

Dr. Ganster noted that the only specific comments received on the advice letter were from the International Boundary and Water Commission (IBWC). The suggested change is to delete two sentences on page 3. If no member objects to this change, Dr. Ganster suggested incorporating the deletion. In response to a question as to why the deletion was suggested, Board member Ms. Ann Marie Wolf (Sonora Environmental Research Institute, Inc.) said that an e-mail from Ms. Sally Spener (IBWC) explained that the statement would not be useful to IBWC in ongoing negotiations between the United States and Mexico and with the various government agencies. Board member Commissioner Bill Ruth (IBWC) agreed that IBWC was involved in discussions with Mexico and with DHS as to how to resolve the problem of the flooding that took place in 2008, and the statements would not serve IBWC's purpose. Board member Mr. John Wood (Cameron County Commissioner) stated that he understood the reason for the deletion but would like to know that at some point, the comments would reach their intended audience. Mr. William Bresnick (DHS) expressed his appreciation for the opportunity to participate in the meeting, and noted that the proposed deletion is a positive change from DHS' perspective; DHS found the statement troublesome and its removal improves the letter.

Mr. Stewart Tuttle (U.S. Department of State) agreed with the deletion suggested by the IBWC because the Department cares about results that are favorable to the bilateral relationship and about satisfying as many concerns on both sides of the border as possible. The direct discussions that Commissioner Ruth is conducting with DHS staff and Mexican counterparts are the best way to accomplish these results. Mr. Wood expressed concern that decisions about the fence that have unconsidered local impacts are being made. As long as there is an understanding that there is a problem, he did not object to the deletion. Mr. Bresnick responded that all the issues and challenges regarding the fence are taken very seriously by staff in U.S. Customs and Border Protection (CBP) in the region and at headquarters and at DHS. DHS looks forward to continuing to work with federal and state officials in the United States and Mexico to find ways to resolve any issues that have been created in the context of the fence. Some issues have been raised because the fence has become a convenient target, but DHS is willing to engage in discussions and help to solve problems when possible. Mr. Wood noted that there has been change in Washington and at DHS, but input from local stakeholders needs to be taken seriously; there is hesitancy among some to deal

with DHS because of the history with the fence issue. Mr. Bresnick responded that he understood the sensitivity that the history has created, and DHS is hoping to move forward and to better communicate with governmental and non-governmental entities. Mr. Wood noted that part of the reason the letter was written is to create a more productive way to work together.

Board member Stephen Niemeyer (Texas Commission on Environmental Quality) asked how the advice letter would be disseminated. Ms. Wesson responded that it would be sent as soon as approved, and would be posted on the Web site immediately thereafter. Mr. Niemeyer asked if the Council on Environmental Quality (CEQ) was waiting for the letter from GNEB. Dr. Ganster responded the CEQ was aware that the Board was working on the letter. Mr. Niemeyer noted that because DHS has a number of concerns with the letter, it may not be the best use of the Board's time for DHS to list all of the issues during the call. It may be better to receive the comments in writing and meet again to discuss them. Mr. Bresnick agreed that it would be inappropriate to state all of DHS' points during the teleconference; the written response is in the clearance process at DHS. He did not know about today's teleconference until very recently, but DHS would be submitting the written response shortly, and would ask that GNEB delay approval of the letter until it is received. The response has been an extensive effort, and with DHS' input, the letter can contain more constructive recommendations on which all parties can agree. Ms. Wesson noted that the GNEB had been trying to engage DHS but does not have an active DHS member, and is pleased that DHS is involved in the discussion. She asked when the comments would be available to the Board. Mr. Bresnick responded that comments would be available in a matter of days. Ms. Wesson suggested that the Board move on to other comments on the letter. Once the comments are received from DHS, they can be shared with the Board members; if they are substantial, another conference call may be needed to discuss revisions.

Mr. Niemeyer expressed concern that waiting for DHS' written comments would delay submission of the letter. He noted that several board members, especially Ms. Wolf, had spent a significant amount of time and effort on the letter and there had been ample notice for DHS to submit comments. He was pleased that DHS was engaged in the discussion but concerned that the comments were to be received so late in the process. Mr. Bresnick responded that DHS became aware of the letter just within the past few weeks. Ms. Wolf agreed that GNEB had been working on the letter since June, and that discussion of the letter was noted on the agenda for the Board's public meeting in September. Mr. Bresnick stated that he was not aware that the individuals drafting the letter had spoken to staff within DHS or CBP who could have answered questions on the topic. He understood the members' frustration, but DHS was attempting to respond comprehensively and quickly.

Board member Mr. Luis Florez (National Park Service) noted that Mr. Niemeyer's and Ms. Wolf's points were well taken, but if there is substantial information that the Board could learn from DHS' written response, it is important to consider it. The information could dramatically alter the approach to the letter, and the GNEB is attempting to work within a positive framework to resolve issues, and needs to maintain a proactive approach. Ms. Wesson agreed that the GNEB had an obligation to make the letter as useful to the Administration as possible, and the letter would be strengthened if the Board and DHS were able to come to an agreement. Dr. Ganster agreed, and noted that the Board has been in transition with a new DFO, but the GNEB could have done more to ensure DHS membership on the Board. The GNEB should provide DHS the opportunity to submit comments, and Dr. Ganster suggested that once received, they should be considered for incorporation into a new draft and an additional conference call should be scheduled. Ms. Wolf stated that she was interested in getting the letter approved and submitted, and if that is how the Board chooses to complete the process she would support that approach.

Mr. Niemeyer asked if notice of the teleconference had been placed in the *Federal Register*. Ms. Wesson confirmed that there was a notice. Mr. Wood stated that the notice had appeared on October 23, 2009. Mr. Niemeyer emphasized that it was necessary to have DHS representation at the GNEB meetings, and that the short timing of the notice before the call did not provide much time for a large agency such as DHS to respond. Ms. Wesson pointed out that four DHS staff members were present.

Mr. Niemeyer added that the advice letter should state that the fence would make sense in targeted areas; the word “targeted” should be included. Dr. Ganster responded that the letter refers back to the annual report addressing the issue of the intersection of security and the environment at the border, and the report is focused on properly targeting infrastructure. Mr. Niemeyer added that local control is very important and had been ignored during the building of the fence. Perhaps this has changed with Secretary Janet Napolitano, but there are a number of comments included in the letter that should remain because attention was not paid to local stakeholders in the past.

Board member Dr. Diane Austin (University of Arizona) suggested that the discussion of the letter be postponed until DHS’ comments were available. She asked about the timeline for the process. Dr. Ganster noted that once DHS’ comments were received, they would have to be incorporated into a new draft; he suggested that when that revised draft was sent to the Board, a conference call be scheduled at that time. Ms. Wesson added that the earliest a call could be scheduled would be the first week of December to allow time for notice in the *Federal Register*. Dr. Ganster suggested that the call be scheduled on December 1, 2009, at 1:00 p.m. Eastern Standard Time. Mr. Wood asked if the Board members would receive the DHS comments. Dr. Ganster stated that members will receive the revised draft letter along with the DHS comments.

Board member Linda Lawson (U.S. Department of Transportation) noted that there were 12 points in the letter. She was concerned that this may be too many issues. Perhaps numbers 6 and 12 could be combined, and it appears that number 1 incorporates numbers 4 and 8. Ms. Wolf noted that the comments received at the GNEB meeting in September, indicated that they should be presented as separate bullets and made more specific; there had been fewer bullets in earlier drafts of the letter.

Mr. Niemeyer asked if the December 1 date would be too early for the conference call. Mr. Rafael DeLeon (EPA, OCEM) noted that if the comments were received by early next week, Ms. Wesson and Dr. Ganster could incorporate them by November 13. The conference call could be scheduled today so that there would be ample time for the *Federal Register* notice. This schedule will require Ms. Wesson and Dr. Ganster to reconcile the DHS comments, send revisions to Board members, and review any comments by Board members on the revisions within the next few weeks. On December 1, the focus should be on fine-tuning and approving the letter rather than rewriting it. Dr. Ganster asked that Ms. Wolf and Mr. Niemeyer be involved in the process as well.

Mr. DeLeon noted that Ms. Lawson’s comment was useful. Additionally, he noticed two points when reviewing the letter. He questioned whether point number 3 was still relevant, and whether, because the GNEB’s role was to provide recommendations to the Executive Branch, the suggestion to amend the REAL ID Act was beyond the Board’s purview. Mr. Bresnick noted that DHS has a new appropriations act that was signed last week, and the language referenced in point 3 is not included. Mr. Niemeyer responded that point 3 can be deleted, but the language that created the GNEB states that it reports to the President and Congress. Mr. DeLeon added that the GNEB has been most effective by providing advice that is helpful, needed, and timely; if recommendations are not seen in this light, it is less likely that they will be given serious consideration. He suggested that members take a last look at the recommendations to see if they can be combined in some way, as Ms. Lawson suggested. Dr. Ganster responded that he would examine this when incorporating the comments from DHS. He added that language could be changed to “support amending the REAL ID Act,” but mention of the Act had to remain in the letter in order for public members to represent their communities and regions accurately. Mr. DeLeon stated that the GNEB should word the letter as it sees fit.

Mr. Bresnick thanked the Board for allowing DHS’ participation and noted that he will try to expedite the submission of DHS’ comments to Ms. Wesson. Ms. Elaine Koerner (DHS) noted that she would coordinate with Mr. Bresnick and the GNEB to expedite the process.

Board members Dr. Christopher Brown (New Mexico State University) and Mr. Michael Dorsey (San Diego Department of Environmental Health) noted conflicts for the December call. Mr. DeLeon stated that the scheduled time would appear to work for enough members to ensure a quorum. The follow-up

conference call was officially scheduled for December 1, 2009, at 1:00 p.m. Eastern Standard Time. Dr. Ganster asked those members who had conflicts to attempt to juggle their schedules so that they could participate in the call.

## **Discussion of the 13th Report to the President and Congress**

Dr. Ganster stated that a new table of contents for the report had been sent to the GNEB members. Some members were present at the National Coordinators meeting for Border 2012, and met to discuss the report. The new table of contents resulted from that discussion. At the September meeting in Nogales, Ms. Mimi Guernica from CEQ discussed the Council's interests for the report, and the Board may have misunderstood her. CEQ is interested in the range of environmental priorities along the border, so the new table of contents reflects a return to the May 5 letter and the draft, with added topics to provide a broader approach to environmental issues. There is a need to focus on key issues and provide more detailed treatment, but smaller, more focused items need to be addressed as well. This report provides an excellent opportunity to offer input to CEQ. New members have been added to the drafting teams with the addition of new chapters. Dr. Ganster asked if members supported the new approach to the report. Dr. Brown agreed that the report provided an extraordinary opportunity to provide very specific recommendations. Dr. Ganster moved on to discussion of the structure of the report.

*Executive Summary.* Dr. Ganster and Ms. Wesson will write this section when the remainder of the draft is complete.

*Chapter 1: Purpose of the Report.* Dr. Austin, Mr. Luis Ramirez, Ms. Wesson, and Dr. Ganster will write approximately one page about the goal of the report.

*Chapter 2: Overview of Border Region.* Dr. Ganster will draft this chapter and circulate it for input and specific ideas.

*Chapter 3: Climate Change.* Dr. Ganster noted that at one point, climate change and alternative energy were combined with the air quality chapter, and it was decided that they needed to be separate chapters. The issues are important and high on the agenda for the Administration and Congress. The climate change chapter will review the forecasts and the likely climate changes in the border region. Greenhouse gas initiatives should be considered, including ongoing inventories in the border and local and statewide plans under formulation. Additionally, the chapter should discuss potential impacts of climate change, including those affecting water supply, rainfall patterns and total rainfall, severity of storms, sea level rise, and the effects on ecosystems and species. Climate change will create chaos in some carefully constructed protected areas. Any other impacts determined also should be discussed. Board member Ms. Allyson Siwik (Gila Resources Information Project) agreed that climate change, alternative energy, and air quality should be separate chapters because the climate change impacts on various media, as well as mitigation and adaptation, can be addressed.

*Chapter 4: Air Quality on the Border.* This chapter will involve a review of major air quality issues, human health effects, and recommendations and priorities, and may include the issue of the transboundary environmental impact assessment process; this may, however, be moved to the institutional mechanisms chapter. Ms. Siwik will be the lead on this chapter, and Mr. Enrique Manzanilla and Mr. Jose Garcia of EPA Region 9 will provide assistance.

*Chapter 5: Alternative Energy.* Dr. Ganster's colleague Dr. Alan Sweedler, Board member Mr. Michael Connolly, Mr. Soll Sussman of the Texas Land Commission, Mr. Niemeyer, and Ross Pumfrey in Mr. Niemeyer's office will assist with this chapter. Dr. Brown noted that Dr. Sweedler had mentioned a national security angle to the alternative energy issue in a presentation, and President Obama has made recent public comments reinforcing it. Including the national security dimension would be useful; developing domestic electricity generation reduces the need to purchase large amounts of gas and oil from politically unstable regions. Dr. Ganster stated that DHS has been examining transborder movement of energy, such as transmission lines across the border. Dr. Brown added that reducing the need for imports

provides a national security benefit that is broader than the border region. This presents an opportunity for input, with ideas that the GNEB has long supported lining up with the goals of the Administration.

*Chapter 6: Water.* Dr. Ganster noted that this chapter should examine water scarcity and water management, including planning for scarcity and examination of infrastructure. The chapter also should discuss water quality. Mr. Niemeyer has written about these issues in the draft chapter, and much has been covered in previous reports, which will be used as a starting point for the chapter. Mr. Niemeyer will lead the team and Ms. Spener, Mr. Florez, and others will provide assistance. Mr. Niemeyer asked Ms. Ann Marie Gantner (EPA, OCEM) to send the list of recommendations from past reports that Dr. Brown had compiled to the GNEB members.

*Chapter 7: Solid Waste.* Board member Ms. Veronica Corella-Barud (University of Texas at El Paso) will lead the team drafting this chapter, and Dr. Ganster will contribute information about tires.

*Chapter 8: Hazardous Waste.* Ms. Corella-Barud and Mr. Dorsey will draft this chapter.

*Chapter 9: Border Security and the Environment.* Dr. Ganster suggested that Ms. Wesson could extract this chapter from the 10th report. Ms. Koerner noted that DHS was interested in having a more active role, and she would be willing to serve as a contact and assist with some of the items that relate to DHS until there is a DHS staff member on the Board. Mr. DeLeon pointed out that, as the DFO Ms. Wesson should not be writing chapters of the report; the report should be written by GNEB members. He thanked Ms. Koerner for her offer of assistance, and Dr. Ganster welcomed her help. The new DHS representative, when in place on the Board, likely will want to use Ms. Koerner's expertise as a resource as well.

*Chapter 10: Emergency Response and Planning.* Dr. Ganster stated that this chapter should include hazardous materials, natural disasters, and wildfires. Mr. Dorsey will lead the team on this chapter with the assistance of Mr. Wood on natural disasters. Some topics will need to be updated, but the report on this subject still is strong. Ms. Koerner asked if the Federal Emergency Management Agency (FEMA) would be involved in this discussion. She offered to help put the Board in touch with some staff members at FEMA. Dr. Ganster responded that this would be helpful. The basic problem identified in the report on the topic is still an issue: the lack of integrated cross-border planning for emergency response. There have been some positive steps, including equipment transfer, but in terms of the two systems being well articulated at the border for issues beyond hazardous materials, there still are major recommendations that can be made. Ms. Spener noted that after the report was released, there was a communication from the Bush Administration about reactivating a binational committee that had been inactive for 20 years to coordinate emergency management between the United States and Mexico. It would be helpful to get an update on the situation. Mr. Tuttle noted that there had been a new agreement on emergency management within the past 18 months, but the agreement needs to be ratified by the Mexican Congress. Dr. Ganster mentioned that this was an update of the 1980 agreement between the United States and Mexico and forms a large, comprehensive committee of U.S. and Mexican representatives. It can be mentioned that this issue is pending if the Mexican Congress has not yet signed the agreement when the report is published. Dr. Ganster will send Mr. Dorsey a copy of the agreement that has yet to be ratified.

*Chapter 11: Habitat, Natural Areas, Protection, and Conservation.* Mr. Florez will lead the drafting team on this chapter. Dr. Ganster will assign other Board members to help with the chapter as well. Mr. Niemeyer can provide assistance. Dr. Brown noted that he had created a poster mapping protected areas in the United States and Mexico, and would be willing to provide this and some accompanying high-quality graphics and concise descriptions of the various areas to Mr. Florez. Dr. Brown asked whether links were utilized in the report to point to items on the Web that could not be included. Dr. Ganster answered that the reports generally had been stand-alone publications. He also noted that the next report would be in full color, and members should keep this in mind while looking for illustrations for the report. Dr. Ganster added that researchers at the University of Arizona are studying cross-border conservation and protected areas, and their work will be helpful; he will give their contact information to

Mr. Florez. Dr. Austin offered to assist by getting information from researchers at the University of Arizona as well.

*Chapter 12: Environmental Health.* Ms. Wolf will serve as team lead on this chapter, and Ms. Corrella-Barud will assist. Dr. Ganster noted that the Board's previous report on children's environmental health will be useful in drafting this chapter.

*Chapter 13: Institutional Mechanisms.* Dr. Ganster mentioned that process and institutions often are discussed in the annual reports, and this chapter could discuss alternative financing mechanisms, which will be increasingly important in addressing border environmental infrastructure needs. Perhaps the idea of a transboundary environmental impact process could be included as well, as could Border 2012 and the next iteration, and the Border Environment Cooperation Commission and North American Development Bank. Dr. Brown will serve as the lead on this chapter and Dr. Ganster will assist. Mr. Manzanilla noted that he would assist in providing background information on this and any other chapters as needed, and that Jose Garcia would assist Board members in finding the appropriate EPA staff members with expertise in the respective areas. Dr. Ganster responded that this would be helpful and would provide a level of technical knowledge that Board members do not have. Dr. Brown noted that there was a solid outline for the chapter that can be shared with any Board members who want to contribute.

*Chapter 14: Prioritizing Border Environmental Policies and Actions.* Dr. Ganster commented that this could be a summary, or this information could be included in the executive summary. The idea behind this chapter is to provide something succinct that mentions priorities beyond the need for more funds.

Dr. Ganster stated that all of the recommendations will be kept with the specific chapters. If the decision is made to create a separate recommendations section, this can be done later in the drafting process. Those writing each chapter should keep in mind specific recommendations and next steps forward. Additionally, members should examine previous reports for relevant content.

Mr. Dorsey asked about the number of pages expected per chapter. Dr. Ganster noted the need to take enough space to cover the material properly but be direct and to the point. The page lengths sent to the Board members are guesses made with the assumption that the major topics such as air and water would require longer chapters than others. Dr. Ganster would like to meet with Ms. Wesson and OCEM staff to discuss guidelines for the chapter authors, including length and illustrations needed.

Dr. Brown expressed concern that there will be 14 chapters in the report but he did not have any suggestions on how to reduce the number. Mr. DeLeon commented that the plan is ambitious; Board members need to start writing. He expressed some concern about timelines, length, and breadth of the material. Dr. Ganster responded that the timeline needs to be determined, because there has to be a fairly complete draft by the end of the year. Ms. Wesson said that based on past timelines, the final draft usually is ready by the end of the year. At this time, however, there are only small pieces of text completed. She encouraged the Board to set a timeline to have text developed soon so that there is adequate time for review. It is important to ensure that the recommendations are solid and well supported by the text. Dr. Ganster will meet with Ms. Wesson and OCEM staff, and will send the Board members the current draft, a detailed timeline, the revised table of contents with new team members, and instructions for authors.

Mr. DeLeon commented that he appreciates all the time the GNEB members spend on the Board's work. This report presents a unique opportunity to give the President and CEQ input on issues on which they have requested assistance. The timing of this report falls at the beginning of the Administration, which has reached out to the Board in unprecedented ways. The GNEB should take advantage of this chance to offer advice. Missing the deadlines would mean missing a chance to have early influence on the scope of the Administration's priorities on border environmental issues. Board members should hold each other accountable to complete the report as soon as possible.

Dr. Ganster thanked the Board members for their time to participate in the teleconference as well as the time they would be spending on the report. Ms. Wesson thanked Ms. Wolf, who had spent considerable time and effort incorporating all the comments that had been submitted to her on the advice letter. Dr. Brown added that Ms. Wolf had been indispensable in the effort. Ms. Koerner thanked the GNEB for allowing DHS staff to attend. Dr. Ganster adjourned the meeting at 2:48 p.m.

### **Action Items**

- ✧ OCEM staff will schedule a conference call for the Board for December 1, 2009, at 1:00 p.m. Eastern Standard Time.
- ✧ Ms. Wesson, Dr. Ganster, Ms. Wolf, and Mr. Niemeyer will incorporate DHS's comments into a new draft of the advice letter and send it to Board members along with the DHS comments by November 13, 2009, if possible.
- ✧ Ms. Gantner (EPA, OCEM) will send the list of recommendations from past reports that Dr. Brown has compiled to the GNEB members.
- ✧ Dr. Ganster will send Mr. Dorsey a copy of the agreement on U.S.-Mexican cooperation on emergency response that has yet to be ratified by the Mexican Congress.
- ✧ Dr. Brown will provide a poster mapping protected areas in the United States and Mexico and some accompanying high-quality graphics and concise descriptions of the various areas to Mr. Florez.
- ✧ Dr. Ganster will provide Mr. Florez with contact information for researchers at the University of Arizona who are studying cross-border conservation and protected areas.
- ✧ Dr. Ganster will work with Ms. Wesson and OCEM staff, and will send Board members the current draft of the report, a detailed timeline, the revised table of contents with new team members, and instructions for authors.

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