

**Statement for the Record**

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Committee on Science and Technology  
Subcommittee on Investigations and Oversight**

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## **Introduction**

Good morning, Chairman Miller, Ranking Member Sensenbrenner, and distinguished members of the subcommittee I am John Clarke, Deputy Director of the Office of National Laboratories in the DHS Science and Technology Directorate. I would like to thank the committee for the opportunity to discuss the transition of the Environmental Measurements Laboratory (EML) from the Department of Energy (DOE) to the Department of Homeland Security (DHS) and the Science and Technology (S&T) Directorate's management of EML since its transfer in March 2003.

In particular, you have asked me to testify regarding the termination or transfer of programs, projects or activities at the EML, how these decisions were made, and the impact of these actions. In previous correspondence, the Committee inquired about the period FY-2002 through the present, part of which predated the Department of Homeland Security (DHS), so the prior history of EML within DOE is relevant to subsequent DHS management decisions.

In 2004 the Office of Research and Development conducted a series of reviews concerning the EML. I was only peripherally aware of the EML during my service in the Department of Energy. Consequently, when I was asked to participate, I consulted EML staff and also talked to current and former DOE officials in the Office of Science (OS), the OS Office of Health and Environmental Research and the Office of Environmental Management who had managed, and had personal knowledge of, EML from the late 1970's until its transfer to DHS.

## **Background on EML**

The EML is located in a General Services Administration (GSA) office building in lower Manhattan. It was transferred from the Department of Energy to the Department of Homeland Security in March 2003 by the Homeland Security Act of 2002.

The current EML evolved from the Health and Safety Laboratory (HASL) of the Atomic Energy Commission (AEC). HASL contributed significantly to various national programs during the "Cold War". However, the laboratory's size and the uniqueness of its capability declined as the global nuclear industry matured and national priorities changed. With the formation of the Department of Energy (DOE) in 1977, the HASL was renamed to EML to reflect its narrower focus on the measurement of low level environmental radiation.

In subsequent years, continued changes in national priorities led to a decline in EML's technical capability relative to the private sector and other DOE National Laboratories all of whom possessed broader scientific and engineering capabilities and missions. According to officials in the DOE Office of Science and its Office of Health and Environmental Research, during the 1990's, the DOE Office of Energy Research struggled to decide whether to close the facility or to find a viable mission for EML. Finally, in 1997, the EML was transferred to the DOE Office of Environmental

Management (EM) where it provided radiation measurement and quality control services supporting DOE's internal environmental monitoring, decommissioning, decontamination, and remediation mission. Periodically, EML also provided radiation measurement services to the National Nuclear Security Administration (NNSA) and, through an Inter-Agency Agreement between the Air Force and DOE, it provided similar services to the Air Force Technical Applications Center (AFTAC), both of which were concerned with nuclear non-proliferation.

Immediately following its transfer to DHS in 2003, the EML continued to work on the internal DOE Quality Assessment Program (QAP), which supported DOE environmental site cleanup, some radiation detector projects and two small and intermittent measurement activities related to non-proliferation. By 2004 when the S&T reviews began, EML was supplying a few staff to provide local support to the S&T Directorate Standards (~1.5 FTE) program and Counter-Measures Test Beds (CMTB) project (~4.8 FTE) in its testing of radiation and explosive detectors, performing two radiation monitoring projects and offering advice and seminars to local first responders.

### **Science & Technology Directorate Management Reviews of EML:**

Since its transfer to DHS in March 2003, the S&T Directorate's Office of Research and Development (ORD) had numerous meetings with the EML's Director and staff of the EML to inform them about the evolving S&T program. ORD also provided funding to EML to support transition planning and the Director had weekly discussions with the ORD Director. In 2004, growing concerns about EML's progress in transitioning its capabilities to support S&T programs, led to a series of reviews by ORD. The first was conducted by Dr. Mark Mandler, who, at the time was the Technical Director of the Coast Guard Research & Development Center on assignment to S&T to assist with lab transitions.

Dr. Mandler's review of the FY-2005 EML Facilities Plan revealed that the EML had a carryover from FY-2004 of 42% in their O&M budget and 26% in their assigned project funds. This increased S&T concerns about EML's progress in managing its transition to DHS. Further, Dr. Mandler's review also found that, despite the EML's large FY-2004 under run, the EML Director's funding projections for FY-2005 staff were significantly overestimated and also contained inflated funding for self-initiated EML projects. It concluded that EML management did not understand the organization's actual capabilities and entertained unrealistic expectations of its potential role within DHS. The final conclusion of Dr. Mandler's review was that S&T needed to reassess how it could utilize the EML. After review and acceptance by the Undersecretary, these conclusions led to the initiation of a more comprehensive Top-to-Bottom ORD management review of the EML.

My personal involvement in the management of the EML began in the fall of 2004 when I was tasked by the ORD Director to work with Dr. Mark Mandler in performing this Top-to-Bottom review.

The Top- to-Bottom management review was to examine whether EML staff could provide more support to the S&T Directorate projects such as the ongoing CMTB project, which was S&T's largest operational activity in New York and New Jersey. It was also to examine what other work was ongoing at EML, what S&T programs it served, what new work was proposed and what priority these EML activities had within DHS. Finally, and most importantly, it was to determine how S&T could best apply the resources invested in maintaining the EML to support the science and technology needs of DHS components as well as the local agencies in the New York area.

The Top-to-Bottom review followed a systematic data gathering process to answer these questions. This included visiting EML, talking to EML staff, examining EML progress reports with S&T project managers, reviewing its quarterly cost reports with S&T Chief Financial Office (CFO) staff, discussing EML's role and contributions with CMTB management and S&T Project Managers, consulting DOE officials familiar with EML and reviewing EML's new and existing work proposals in context of the program plans of S&T managers. The review was completed by late October of 2004. At that time, it was decided by the ORD Director that the results of the review should be presented to EML's management. The conclusions are summarized below.

An S&T team consisting of Dr. Parker, Mrs. Alyce Bridges from S&T Human Resources and I visited EML on Dec. 17, 2004. We met with Dr. Erickson and his senior managers and reviewed the S&T Directorate's mission and goals with them. We informed them of the conclusions of the Top-to-Bottom review and reminded them of ORD's expectations for EML.

After reviewing S&T's current and future program directions, it was noted that the CMTB, which utilized some of the EML staff, seemed to be the closest match to the EML's radiation measurement competency. However, Dr. Parker also warned the EML management team that, even within the CMTB, change was coming. We further noted that the ongoing CMTB test and evaluation program required more than experience in radiation measurement and, as it developed, it would need core competencies in field operations, pilot deployment and consequence management. We informed them that ORD expected EML management to engage in a serious assessment of its strengths, weaknesses, opportunities and barriers to its success in identifying and serving DHS customers such as CMTB project.

We then reviewed the detailed findings of the Top-to-Bottom Review on each of the currently funded activities at the EML. The review had found that in the area of standards development, urban atmospheric circulation measurements and radiation monitoring development activities, S&T program managers believed that EML was not competitive with other institutions. Consequently, these managers expected that current EML activities in these areas would be completed by 2005 with little, if any, follow-on work. The review had not found any S&T project manager who intended to fund EML beyond 2006 in any activity other than the CMTB project.

The review had also gathered mixed reviews of the EML relationships with local New York area government agencies. EML was recognized for holding seminars for local government personnel, for answering their questions related to radiation measurement and for the contributions of their staff to the CMTB test program. However, the review found that Homeland Security support to local government agencies was multi-faceted and required not only a broad range of technical expertise but significant skills in relationship management with both S&T, other DHS components and local agencies, skills which EML had not exhibited outside of the CMTB test program.

Based on overall DHS goals, we told the EML managers that creating an operational platform to coordinate the development, operational testing and transfer of homeland security technology to local government agencies was potentially a critical success factor for S&T. The CMTB fulfilled part of these functions and EML was already contributing to its test and evaluation program. However, this participation, while certainly valuable, employed only a fraction of the EML staff and was not sufficient by itself to justify the existence of EML. We informed the EML managers that ORD would be performing a market survey of S&T technology suppliers and potential users in New York to determine a concrete value proposition for such an operational platform. ORD expected to evaluate EML's future role based on their institutional strategic and business plans and the results of the DHS market survey.

Following this meeting, S&T together with a team of organizational management experts from Booz Allen Hamilton (BAH), conducted dozens of interviews with potential customers for, and suppliers of, science and technology services in New York for the purpose of determining a vision and value proposition for S&T activities in New York. The teams also gathered information from several DOE National Laboratories, other government laboratories, DHS component agencies and local agencies both at Headquarters in Washington, DC and in New York.

The teams identified S&T operational activities in New York of value to a broad cross-section of homeland security technology suppliers and operational users. These activities fell into four categories: 1) Providing operational liaison to maintain interactive communication between developers and operators; 2) Identifying opportunities to exploit emerging science and technology; 3) Spiral development to evaluate developmental technology in an operating environment and; 4) Providing continuous technical support during technology test and evaluation, insertion and deployment.

The team briefed ORD management throughout the process and by the summer of 2005, the ONL team was instructed to develop strategic and business plans for an operational platform to perform these identified functions: the Technology Liaison Office (TLO). The TLO's value proposition focused on providing relationship management between technology developers and potential users to coordinate operational test and evaluation and on providing interactive communication and mutual support between potential users and S&T developmental technology programs.

As recommended by the Top-to-Bottom review, ONL then evaluated EML's potential future role in S&T based on its staff capabilities, its institutional strategic and business plans and the results of the DHS market survey and resulting value proposition. The EML's leadership of the CMTB local support activities (4.8 FTE) fell within the scope of the TLO value proposition. Unfortunately, when ORD compared the range of professional skills required to achieve the TLO value proposition with those skills extent at EML, it found only this small overlap.

This led to a recommendation to ORD management that the EML should be phased-out as an institution because its capabilities were neither competitive nor necessary to the mission of the S&T Directorate. Furthermore, it had no prospects of future S&T R&D program support, the skills of most of its staff were not suited for a useful S&T operational role in New York, and its operating costs were high and rising. The team also recommended that a TLO serving the identified customer needs in New York be established and that EML staff and capabilities be transitioned as far as possible.

ORD management accepted this recommendation in the summer of 2005. ONL, S&T Human Resources and Congressional Relations were then tasked to prepare detailed transitions plans for the EML staff and facilities. This work was completed during September 2005 and Undersecretary McQueary was briefed on the results. He commented on ORD's thorough and systematic preparation for a difficult decision. He verbally agreed that phase-out of the EML was the right thing to do and asked that a final decision package be prepared for Secretarial approval. The Secretarial decision package was completed by ONL and forwarded to the Under Secretary by ORD.

Under Secretary McQueary announced his resignation shortly thereafter and the Secretarial decision package was put on hold pending the arrival of his successor. After Dr. Runge was named Acting Under Secretary, he received a memo from Dr. Vayl Oxford, Director of the Domestic Unclear Detection Office (DNDO), noting that DNDO was planning a regional reach back initiative and proposed to use staff from Brookhaven National Laboratory and EML as its staff on a part time basis. This request required modification of the plan for the EML phase out and the startup of the TLO. A second Secretarial decision package with these modifications was prepared for Acting Under Secretary Runge. However, when Retired Rear Admiral Jay M. Cohen was nominated to be Under Secretary of the S&T Directorate, this second package was held pending his confirmation.

### **S&T Management Actions and Rationale:**

While the options for the future of EML were being developed and reviewed, a number of S&T management actions were taken to address concerns identified during the Top-to-Bottom Review. The overall intent was to increase EML's focus on transitioning its staff to viable missions within Homeland Security.

First ORD conducted a detailed review of the EML Program Execution Plan (PEP) for FY- 2005. This review was conducted for Dr. Parker and coordinated with S&T's Chief

Financial Office (CFO), the Chief Information Officer (CIO) and the project managers who were currently funding activities at EML. For this purpose, ONL supported Dr. Parker.

With respect to the EML operation and maintenance budget, the PEP Review found that most of the cost was due to EML occupying space equivalent to more than an entire city block - with most of the space unused for years. For instance, EML had six chemistry labs that were utilized over decades on various DOE programs -primarily for sample preparation prior to analysis and data acquisition for DOE programs. As the programs were reduced or terminated by DOE, the need for maintaining these labs no longer existed but they were, nonetheless, maintained by EML management. The review also identified traditional EML expenditures that were no longer necessary, such as a special EML security guard, in a federal building already secured by the Federal Protective Service – for which EML was also paying. It also found that EML was requesting project funds for activities that involved little more than staff time, which was funded separately.

The review recommended specific operating budget reductions to eliminate these and other unnecessary expenses. The review also recommended that the unused EML space and facilities be decontaminated in anticipation of returning the excess space to GSA.

The ORD Director reviewed the recommended budget and decided that it contained sufficient funds to allow EML to carry out all activities proposed in the EML PEP that had any relationship to DHS goals. She adjusted the EML budget request accordingly and reserved the savings for EML cleanup purposes. The result of this review was to focus EML staff on actual DHS goals and ORD management was able to redirect nearly a million dollars to initiate decontamination and disposal of unused and unneeded space at EML.

As part of the cleanup of the unused EML Chemical laboratories, all unused reagents, materials, and equipment of value were sorted and offered to other research institutions (i.e., DHS labs, other Federal labs, state labs, universities, and GSA). Any mixed waste or radioactive waste was collected and disposed of by Brookhaven National Lab. The empty lab spaces, including fume hoods, benches, storage cabinets, and other physical structures that are not removable, are being surveyed and decontaminated for “free-release” by a subcontractor through the U.S. Army Field Support Command. Other unused areas of the approximately 96,000 sq. ft. occupied by the EML were also surveyed and are being decontaminated.

Given additional concerns with EML’s management raised by the findings of the budget review, the ORD Director assigned ONL to monitor future EML operating expense requests, including requests for travel, new staff, facility modifications and information technology equipment. The travel review was directed at eliminating unnecessary expenses related to the continuation of their former DOE activities by EML staff.

The IT review, which was done in conjunction with the S&T Chief Information Officer (CIO), was aimed at eliminating unreasonable expenses given the limited EML activities.

The CIO reviewed EML IT needs and provided connectivity to the DHS network through four, rather than the requested forty, computers. These computers were to be used for EML travel, financial and procurement activities and active CMTB business. The existing EML computer network was found adequate to be used for all other business. Blackberries were provided to EML management personnel and those who were active on DHS projects outside of EML.

Much of EML's nominal budget in FY-2004 was actually procurement or "pass-through" for work at other laboratories, rather than to support local EML activities. When the procurement warrant holder who resided at EML retired, the S&T CFO and the DHS Office of Procurement Operations (OPO) determined that it was not practical or cost effective to replace him and that procurements could be handled through S&T/OPO. As a result, for FY-2006 CMTB major procurements were handled through S&T/OPO and minor purchases made through the EML purchase cards. From that point on, major CMTB procurements and funds for the Urban Dispersion Project was routed directly through the UDP Principal Investigator to the multiple laboratories actually carrying out the project. The effect of these decisions was to eliminate unnecessary duplication of effort. However, they did not in any way reduce the technical capability of the EML

The Top-to-Bottom Review had found that a serious impediment to the transition to DHS was that some EML personnel were adhering to their former roles within DOE. As a result of reviewing the proposed EML travel, ONL advised individual EML staff to phase-out their roles on various DOE related interagency committees and activities that required travel without a DHS justification. Any travel that related to active DHS functions was approved immediately. Compared to the other ONL management responsibilities with respect to other DHS Laboratories, this travel monitoring did not involve a great deal of money. However, it was extremely important to refocus EML staff from their identification with their former roles in DOE upon their current DHS situation.

Similarly, the Acting Deputy Director of ORD, Dr. Carolyn Purdy, detailed the EML Director to Washington to strengthen his understanding of S&T programs. He is currently supporting the S&T Infrastructure and Geophysical Division. Dr. Adam Hutter, who had successfully managed EML support of S&T CMTB activities, was asked to serve as Acting EML Director. Mr. Hutter has taken on the EML Director's assignment of defining a strategic and business plan for EML and has been working very successfully with DNDO in developing expanded EML support of their regional reach-back and testing activities.

### **Project Closures at EML:**

Aside from these internal S&T management actions aimed at eliminating unnecessary expenditures and redirecting EML's focus to actual DHS requirements, there have been a number of unrelated project changes or closures at the EML. The Committee has inquired specifically about four of these: the Global Monitoring Activity, the Quality Assessment Program (QAP), the Urban Dispersion program (UDP) and a Reach-Back Pilot Program (RPP). Even though I have generalized knowledge about these programs through my



responsibilities in the ONL, I was neither the program manager for any of these projects nor did I direct any actions be taken in connection with any of these programs.

The first two items, the Global Monitoring Activity and QAP, were never DHS programs and decisions on their funding were made independently by their sponsoring agencies.

The third program, the UDP, is a DHS research program that was started, successfully executed and is in the process of transferring its results to the intended recipients.

The last program, the RPP, was discussed by the S&T Portfolio Manager as a concept but never approved or funded. Under Secretary Cohen has addressed each of these programs in his letter to Chairman Miller dated March 13, and since I did not have programmatic oversight over those programs it would be more appropriate for others to comment on the specific facts associated with any particular project.

### **Conclusion:**

Unfortunately, despite S&T's identification of several valuable functions for an operational presence in New York and the joint S&T/EML efforts to address the problems that the Top-to-Bottom review identified in 2004, by the Fall of 2005 the EML had not been able to find a function within DHS that matches the size and capabilities of the majority of its existing staff. This led Undersecretary McQueary to make a preliminary program level decision that a phase-out of the EML was in the best interests of both S&T and the EML staff. Changes in the S&T Directorates management delayed the transmittal of S&T's recommendation to the Secretary of DHS for a final decision.

Of course, this delay has been extremely stressful to the people at EML. A year ago, one of the EML professionals advised our Human Resources office that the lack of decision was hurting EML's professional demeanor, impacting mental health, and hurting people in their home life. He was speaking for himself as a professional who only wanted a significant job to perform but he also said that the situation was impacting everyone at EML including the large support staff. S&T management was aware of, and very sensitive to, the difficult situation that the transfer to DHS had created for the people at EML.

S&T management was, and continues to be, sympathetic to the difficult situation of the EML staff. Since the transfer of EML in March 2003, the S&T Directorate has tried to provide responsible management which balanced concern for the people at EML with stewardship of the mission and public resources with which we are entrusted.

Some progress has been made in the one area where EML capabilities matched the Homeland Security needs that the review identified in New York. The Acting EML Director, Mr. Hutter, has been doing a commendable job in providing EML support for the S&T radiation detection test and evaluation activities, which have since been transferred from S&T to DNDO. He has also been working with Brookhaven National

Laboratory to provide support for the DNDO regional initiative in New York and in examining the potential technology liaison activities that might be addressed by his staff.

Under Secretary Cohen has indicated a commitment to rightsizing the EML facilities and workforce. This will include both supporting those individuals working on the DNDO activities and transitioning the remaining staff to a productive roles working on S&T programs. We all look forward to assisting in this transformation.