

**Oral Comments of Charles (Chuck) Elkins**  
**First Meeting of the SAB's Chemical Assessment Advisory Committee**  
**April 3, 2013**

My name is Chuck Elkins and I worked in senior positions at EPA for 25 years and then for the last 18 years as a consultant to industry. My comments reflect both of these experiences and are not presented on behalf of any clients.

I want to make 4 suggestions to this committee:

**First, continue to be assertive about your mission:**

Nothing is set in concrete. Ken Olden clearly wants you to provide advice on cross-cutting issues. At the same time, you need to peer review the individual assessments. Here's a suggestion developed by my colleague, Bob Fensterheim: Conduct the first two assessments using the the full committee, augmented by additional scientists. If there are conflicts, ask those members to sit in the audience during the review. They can learn from that seat as well. Work with EPA to identify those cross-cutting questions that, if resolved, would have a good chance of speeding up the assessments that follow. I provided you a few suggestions in my written statement.

With regard to the Committee's interest in early involvement in an IRIS assessment, I believe EPA does plan to have Early Engagement Sessions with stakeholders and there will be reports from those meetings as well as workplans developed for the assessment. The Committee could receive those and stay up to date.

**Secondly, take control of your charge questions**

This is how the present management of the charge questions, in my view, puts the control of the charge question in the wrong hands:

- The NECA staff drafts the assessment
- Then the same people draft charge questions for the SAB
- NCEA asks the SAB to set up a panel with scientists who are capable of addressing these charge questions.
- The SAB chooses a panel, announces the meeting date, and puts the draft assessment out for public comment. The charge questions are also made available.
- The public sees the draft assessment, often for the first time and reviews it, identifying scientific issues that are raised by the assessment that ought to be addressed in the

assessment and/or in its charge questions. It has been truly remarkable how many of these issues identified in the public comment period have not been addressed in the assessment itself or the charge questions.

- The agency receives the public comments and any comments about the charge question and then usually goes straight to peer review with the same draft assessment and no changes to the charge questions to reflect these comments.
- The Committee members go to work on the NCEA charge questions even before their first meeting by writing up their draft answers to these original questions.
- Finally, at the first meeting, the charge questions are addressed for the first time by a neutral party, namely, the Committee, but by then it is too late to change the membership of the panel to ensure appropriate coverage of any new charge questions. In addition, committee members have usually already written their draft answers to the original questions and the review by the individual members is effectively well under way.

Clearly, this process needs to be fixed by having EPA put the draft assessment out itself for public comment and then adjusting the assessment and the charge questions to reflect the new issues identified.

Specifically:

- The charge questions should reflect the key scientific issues raised about an assessment, including those questions raised by the public. These reviews are not an exercise in whether EPA can write a good evidence table. The question is whether the conclusions reached in the assessment are supported by the evidence.
- The panel should not be chosen until after the charge questions are settled, in order to make sure there is the requisite expertise to address the final set of questions.
- The Committee should ask EPA not to send an assessment for review before the Agency has addressed in the assessment itself, or responded to the key scientific issues raised in the public comment period or at least tee them up so that they can be addressed by the Committee. The Agency's response to these issues needs to receive peer review.
- Finally, don't sunset the review panel until after the Agency has sent the panel its response to comments and members of the panel have a chance to make sure that the Agency understood the panel's recommendations.

I recommend that you ask the SAB staff to negotiate these changes to the process with NCEA. Our sense is that the new leadership of NCEA would be very receptive to putting the assessment out to public comment first and adjusting the charge questions accordingly.

### **Thirdly, aggressively manage all presentations to your Committee (Including those by EPA and the public.)**

Allowing EPA or the public to address the Committee in the course of its deliberations should not be seen as an exercise of democracy. The time of the committee is too short for that. Presenters should be seen as potential resources for the Committee, not as people who need to be heard in equal amounts.

EPA's ability to serve as such a resource is fairly obvious. Viewing the public as a resource may be a novel idea for some. But as many of you know, there are stakeholders in both the NGO community and in industry, not to mention state and local governments, who have spent considerable portions of their careers focused on one or a small number of chemicals. They have conducted studies on these chemicals, they have looked across the whole set of studies on a particular chemical or facet of a chemical and found consistencies and inconsistencies that shed light on the studies' interpretations, and they sometimes care so much about these chemicals that they are willing to stay up to all hours of the night to find some nugget of information that everyone else has missed.

How can the Committee tap into these potential resources? I want to suggest a few ways. I believe all of these are fully consistent with the FACA rules that you must abide by, but I will ask Dr. Shallal to speak up after I finish if I have suggested something that goes over the line. The Committee should:

- Throw away the 5 or 7 minute rule and allocate time to presenters, both from the public and EPA, based on the potential value of their comments to the Committee in terms of imparting information that the Committee needs. This management of the presenters as resources to be mined can be done by the Chairman or a subcommittee on the basis of the written statements submitted ahead of time. There is no legal or policy reason that each presenter should be given an equal amount of time.
- Engage presenters in a dialogue. If they are a resource, then one would expect you to have questions for them because they should be helping you fill in gaps in your knowledge, not just presenting what they feel like.
- If you have an author of a study in the audience and the committee is discussing that study, the Committee should feel free to ask the author to come to the podium, or better yet, take a temporary seat at the table, and discuss the details of the study with the Committee.

In short, presenters should be viewed as a resource. You should aggressively manage them. You can start by abolishing the policy of giving 5 minutes to the public and unlimited time to EPA's

presentations and instead allocate time to each presenter based on your judgment about what they have to say and how much you need to hear it in order for you to answer the charge questions.

### **Finally, Jealously Guard your Independence**

Is there a danger that SAB committees can become a captive of the EPA office whose documents they are reviewing? I think so. It has been reported, for example, that in the past, a SAB committee's first draft of its report might be fairly critical of the EPA Work product but over the course of several conference calls, the recommendations get watered down, sometimes in response to a plea from EPA that the Committee not make things difficult for the Agency.

I urge you, don't pull your punches in order to soften your reports. You owe both the Agency and the larger community outside EPA who are your clients as well a review that is conducted in an uncompromising fashion.

EPA is a strong agency and quite capable to dealing with any science recommendations you give them. They have the authority to decide not to follow one or more of your recommendations because you have no veto over their actions. Let the Agency worry about what to do about your recommendations. You should focus instead on calling the situation as you see it. All of us outside the Agency, the state and local governments, the NGOs, and industry who are also the clients of your work as much as EPA is, are counting on it.