Executive Summary

The Eighth Meeting of the Veterans' Advisory Board on Dose Reconstruction (VBDR or the Board) was held at the Westin Baltimore Washington Airport Hotel in Linthicum Heights, Maryland, on September 10-11, 2008. Members in attendance were Vice Admiral James A. Zimble, Chair, Mr. Harold L. Beck, Dr. Paul K. Blake, Dr. Ronald Ray Blanck, Dr. John D. Boice, Dr. Patricia A. Fleming, Mr. Kenneth L. Groves, Dr. John Lathrop, Dr. David E. McCurdy, Mr. Thomas J. Pamperin, Dr. Curt R. Reimann, Mr. R. J. Ritter, Dr. Kristin Swenson, Mr. Paul L. Voillequé, Dr. Gary H. Zeman, with Colonel George Edwin Taylor attending via telephone. Also available by phone was former Board member Dr. Elaine Vaughan to offer her expertise in the area of risk communication. Others in attendance included staff of various federal agencies, as well as members of the public.

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THE VETERANS' ADVISORY BOARD ON DOSE RECONSTRUCTION
DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

Minutes of the Eighth Meeting
Held September 10-11, 2008

The Eighth Meeting of the Veterans' Advisory Board on Dose Reconstruction (VBDR or the Board) was held at the Westin Baltimore Washington Airport Hotel in Linthicum Heights, Maryland, on September 10 and 11, 2008. The meeting was called by the Defense Threat Reduction Agency (DTRA) of the Department of Defense (DoD) and the Department of Veterans Affairs (VA). These minutes, as well as a verbatim transcript certified by a court reporter, are available on the internet on the VBDR web site located at http://VBDR.org. Those present included the following:

VBDR Members: Mr. Harold L. Beck, Dr. Paul K. Blake, Mr. Ronald Ray Blanck, Dr. John D. Boice, Dr. Patricia Fleming, Mr. Kenneth L. Groves, Dr. John Lathrop, Dr. David E. McCurdy, Mr. Thomas J. Pamperin, Dr. Curt R. Reimann, Mr. R. J. Ritter, Dr. Kristin Swenson, Colonel George E. Taylor, USA (ret) (via telephone), Mr. Paul L. Voillequé, Dr. Gary H. Zeman, and Vice Admiral James A Zimble, USN (ret.), Chair.

Designated Federal Officer: Brigadier General Randy Manner.

Federal Agency Attendees:

Defense Threat Reduction Agency: Mr. Mark Guidry, Lt Col Tim Gochnaur USAF, Ms. Kate Hooten, Mr. Blane Lewis, LCDR Jerry Sanders, USN, Mr. Eric Wright.

Veterans Administration: Ms. Cheryl Flohr, Baltimore Regional Office.

Congressional Representatives:

Ms. Anne Irby for Senator Ben Cardin; Ms. Jacqueline Garride, House Veterans' Affairs Committee staff.

Other Participants:

Dr. Isaf Al-Nabulsi (NCRP), Ms. Patty Barnhill (NCRP), Mr. Tom Bell (NCRP), Mr. Kenneth J. Demarais (Atomic Veteran), Mr. John D. Ganz (Atomic Veteran), Mr. D. Michael Schaeffer (SAIC), Mr. Edward H. Shaller (Atomic Veteran), COL George Edwin Taylor, USA (ret.) via telephone; Ms. Charlotta Teague (NCRP), Dr. Thomas Tenforde (President, NCRP), Dr. Elaine Vaughan (via telephone), Mr. C. F. Wojeik (Atomic Veteran)

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Wednesday, September 10, 2008

Call to Order and Opening Remarks

The meeting was called to order by **Brigadier General Randy Manner** from the Defense Threat Reduction Agency, Designated Federal Officer for the Advisory Board. He welcomed the attendees and explained his purpose was to ensure the meeting is held in accordance with the Federal Advisory Committee Act and the Sunshine Act. **General Manner** then turned the conduct of the agenda over to the Chairman of the Board, **Vice Admiral James A. Zimble**.

Dr. Zimble added his welcome and reminded everyone to sign in to ensure that the attendance of everyone was captured in the record.

Dr. Zimble welcomed **General Manner** to his first meeting, and also welcomed the atomic veterans in the assembly. He requested that guests not ask questions or make comments during the course of discussions, noting there will be opportunity for public comment at specific points during the meeting.

Also welcomed were **Ms. Jacqueline Garride** from the House Veterans' Affairs Committee (HVAC), noting that there will be good news to share with the HVAC, as well as thoughts on how this Board should proceed. He added they looked forward to some direction from that Committee.

Dr. Zimble also introduced **Ms. Cheryl Flohr**, Service Center Manager for

the Baltimore VA Regional Office. He suggested that if any veteran here has a concern, there is a representative available with whom they can speak. He noted there has been a VA representative at every meeting, and they have been very helpful in resolving some of the veterans' problems. He expressed his gratitude to the VA for their advocacy for all veterans.

Dr. Zimble acknowledged that Board member and atomic veteran **Colonel Ed Taylor**'s absence was due to health reasons and he would probably not be available by telephone.

He announced that **Dr. Elaine Vaughan**, former Board member and consultant for risk communication, will be available by telephone for part of the meeting should there be any need for her assistance.

The Board members were then called upon to introduce themselves, which they did, including their background and experience.

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Update on Nuclear Test Personnel Review (NTPR) Dose Reconstruction Program

Dr. Paul K. Blake,
Program Manager

Dr. Blake's update focused on what has been accomplished since the preceding meeting. He indicated he would cover where the program is, the status on the program, with updates on technical issues. He would then review status of addressing recommendations from the Board, and brief thoughts for the road ahead for the program.

First addressing incoming cases, **Dr. Blake** discussed the peak of incoming cases in 2003 resulting primarily from referrals by the VA of cases from atomic veterans on claims for radiogenic disease. He gave some history of the Government Accounting Office study and the National Academy of Sciences (NAS) study looking at the dose reconstruction program at DTRA, questioning some methods. Based on the NAS study there was a decision made to return all dose reconstructions to DTRA that had not gone to service connection. Since that time incoming cases have been fairly steady.

Dr. Blake discussed the population of atomic veterans, the effects of atomic veteran aging, and explained that over the last four months

approximately 97 cases came in per month. Two-thirds are from VA and the other third is based on personal inquiry and responses to the Department of Justice, where veterans can also file for compensation.

A highlight was when centralizing the claims at the Jackson, Mississippi VARO came on line, and **Dr. Blake** commented this Board's recommendation for centralization of all radiogenic disease claims in one VARO had been of great benefit to both VA and DTRA. It has proven helpful in interfacing between the agencies and has been a significant breakthrough from the viewpoint of DTRA, in that they work together on almost a daily basis.

Moving to the issue of caseload history, a bar chart depicted the actual non-presumptive pending caseload beginning in January of 2000. It demonstrated the increase in caseload from the time of the enactment of Public Law 108-183, to the first meetings of this Board beginning in 2005. He noted that at the first meeting only concepts were introduced, but by the second or third meeting recommendations began to evolve. Problems in that period included the large backlog of veteran cases. Budget had basically doubled, but caseload was not coming down. Obviously, a different approach was needed.

Dr. Blake explained that the challenge of changing approaches within a federal agency is the need to follow public laws and federal regulations, which at that time required that dose reconstruction had to be completed in a rigorous manner, computing the mean dose and associated upper bound. This turned out to be both time-consuming and expensive, and not necessarily the best approach for the veterans.

What VBDR has done for the program, through discussions and public recommendations, allowed development of expedited dose processing, which replaces the historical time-consuming dose reconstruction methods with an approach that determines worst case upper bounds, providing maximum benefit of doubt to the veterans. The expedited process is based on the historical repository of NTPR dose assessments, and has resulted in a significant caseload reduction based on VBDR recommendations.

Total cases currently at DTRA number fewer than 150. Mean response time is roughly 44 days, with a current maximum of 128 days. **Dr. Blake** explained that, with this particular veteran population most communication interaction is done by phone or mail rather than Internet and e-mail. He gave a scenario of how a case progresses from receipt of the case from the VA to completion of the dose reconstruction.

Dr. Blake described the impact of the Board's recommendations, which included faster responses, a significant increase in favorable VA

medical opinions, significant NTPR cost savings, significant decrease in Congressional inquiries, and an optimized steady state condition.

Discussing where the program is headed, **Dr. Blake** explained that they are updating their Radiation Dose Assessment (RDA) procedures and noted perhaps the most important part is how they deal (RDA) with uncertainty. He discussed the issue of reviewing events 50 years or more in the past in trying to calculate doses for veterans, some of whom may or may not have been wearing film badges, as well as determining dose from inhalation of radioactive material from fallout and resuspension.

He remarked that they are in the process of preparing a DTRA technical report on probabilistic uncertainty analysis to be used in NTPR RDAs. This report has undergone initial external peer review and comments received are in the process of being revised.

Dr. Blake expressed his hope to forward the report to his fellow Board members for peer review before it is finalized and published. He observed that the technical basis documents are the foundation upon which Standard Operating Procedures (SOPs) are based and from which dose reconstructions are then done, so science is based on the technical reports. **Dr. Blake** also reported that SC-1 was briefed on this initiative in January, April and July of 2008.

Dr. Blake remarked that, from a quality point of view, NTPR initiated double-blind RDA intercomparisons in June of 2007, as well as January, April and July of 2008. He explained the differences in the usual dose reconstruction and the double-blind methods. SCs 1 and 3 have noted a continuing improvement due to progress in documentation in the RDA SOPs and NTPR training for non-NTPR health physicists (HPs).

The Board has also, through its recommendations, focused NTPR on an independent review of the expedited RDAs. **Dr. Blake** described the use of the Decision Summary Sheet (DSS) where the DTRA HPs' decision to expedite is now captured. The DSS and other documentation supporting the decision is now being reviewed by a non-DTRA HP, which adds one to two weeks to the process.

A significant savings in throughput had been the result of an arrangement offered by the VA whereby the NTPR connected its virtual private network to move data back and forth between the VA and DTRA through an encrypted method over the Internet. That is currently in the process of moving ahead, and will reduce throughput time because there will be no further need to account for the mail moving back and forth.

Dr. Blake observed there had been 18 formal recommendations signed out from the Board to DTRA, beginning in June of 2006. With no formal recommendations coming forward at the July meeting, **Dr. Blake** had at that time reported the completion of meeting 11 recommendations, with seven ongoing. This report dealt only with those seven. A summary of each recommendation was presented when the recommendations were made, and their current status.

Dr. Blake noted that DTRA had accepted for action all 18 recommendations, and all have been acted on. And as of last meeting actions related to 11 of those recommendations have been completed and seven were ongoing. He then provided a status of the seven ongoing recommendations. He further remarked that DTRA supports continuation of recommendations that are ongoing, observing that some are open-ended.

Dr. Blake noted that as result of the VBDR recommendations and their implementation there has been a dramatic drop-off RDAs based on those VBDR recommendations. Total cases now at DTRA are a little less than 150. Mean response time is about 44 days. Some cases come in and out fairly quickly. But the cases that are more challenging may take as long as a maximum of 128 days when interactions with veterans are needed.

NTPR is in the process of getting ready to publish a DTRA Technical Report on "Probabilistic Uncertainty Analysis in the NTPR Radiation Dose Assessments." The initial report has been prepared. It's undergone the initial external peer review. The report is being revised based on those comments.

A Virtual Private Network between the two agencies is basically moving secure PDF documentation, scanned in, between the two groups. It speeds up interactions and allows for a weekly case status exchange so NTRP and VA both know exactly where each case is at what period of time.

Addressing the road ahead, **Dr. Blake** observed that one major challenge is to review all recommendations, determine how they have affected the procedures, and revise the Code of Federal Regulations (CFR) under the Department of Defense, which is what entitles the DTRA Dose Reconstruction Policy. That has been pushed back some as they continue to see technical challenges and feedback from the Board, but DTRA hopes to have that occur within the next year.

From the CFR revised technical viewpoint of the NTPR program in refining the SOPs, that is an ongoing process and will be continuing over the next year. **Dr. Blake** expressed his hope that, after a year,

things will calm down. Based on Board input, they are very busy publishing technical basis documents and preparing to post all procedures on the web. He indicated he sees another full year of effort will be required before DTRA feels satisfied with where they are in meeting all of the VBDR recommendations.

Relative to discussions on Board transition, **Dr. Blake** indicated DTRA will support whatever the agency directors feel comfortable with and will stand behind it.

Discussion Points:

- What was the usual response time before the expedited processing began?
- Observation that the creation of this Board was because of problems, recognized by the Veterans Affairs Committees in the House and Senate, with delays which were unconscionable for the veterans;
- Observation that favorable reviews for compensation previously were roughly nine percent and are now up to 29 percent, which is an accomplishment in favor of the veteran;
- Clarification of what happens within the 44 days processing time;
- The veterans community has indicated their pleasure in improvement to the system and shortening of time between filing a claim and getting some word back;
- What more can the Board do for the NTPR;
- Discussion on DSS reviews and how they can improve processing.

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Update on VA Radiation Claims Compensation Program for Veterans

Mr. Thomas Pamperin,
Deputy Director
Compensation & Pension Service

Mr. Pamperin reported that there have been 29 recommendations from the Board, of which seven relate to claims procedures, nine to quality, seven to communications and six to alternative dose reconstructions. He noted that, unlike DTRA, there were some recommendations VA did not accept and he would go into those after a short overview of the various groups of recommendations shown below.

He began with the recommendations relative to claims procedures, addressing each of them in turn.

He then addressed the recommendations in the area of quality management, noting that one recommendation was to provide information to NTPR about specific claims outcomes of specific veterans. VA felt it was not appropriate because of privacy issues. A compromise was reached by giving dose estimates received and what they were in terms of claims granted, without associating them with particular veterans.

A recommendation to provide presumptive and non-presumptive data was complicated because diagnostic codes used by VA can be used for other things, so that would have to be sorted against DTRA data to see if the claimant is a nuclear participant, and that information is pending a data analysis.

Speaking to communication and outreach recommendations, **Mr. Pamperin** noted that the automatic Ionizing Radiation Registry (IRR) registration, which his slide displayed as having been accepted and pending coordination, is slightly changed. He reported he had received information from the Veterans Health Administration that they aren't sure they can do it. Participation in registries is a voluntary act and the question of whether or not one can, without permission, place an individual on a registry is being worked through currently. If it were to happen, he suspects that a release from the veteran will have to be obtained first.

A recommendation to formalize a VBDR role in the preparation of letters to claimants was made, and the Board provided VA with a suggested draft which was acceptable to **Mr. Pamperin.** However, the staff responsible for letter-writing had some problems with the Board's draft which made it unacceptable. VA will provide the Board with drafts of letters for Board review and development.

In regard to those recommendations that VA did not accept, the following information was provided.

1) Moving to alternative methods of dose reconstruction, the recommendation to grant service connection for basal cell cancer, regardless of dose, was not accepted. **Mr. Pamperin** reported the VA felt that the recommendation was inappropriate.

2) A recommendation that VA not refer non-radiogenic conditions to NTPR was not accepted. **Mr. Pamperin** explained that when they get claims from veterans with statements from their local health care provider saying it's possible their condition may be due to exposure to radiation, even though there's no scientific evidence to suggest it can be caused by radiation, the law says when there is medical evidence of an association it will be referred to NTPR for action. What VA has said is that if NTPR will provide a letter explaining the scientific

basis as to why a condition is not a radiogenic disease and that they're unable to calculate a dose that would be appropriate since it's not in the Interactive RadioEpidemiological Program (IREP) model, that evidence can be used to weigh against the other medical evidence in making the decision.

3) Another recommendation was that VA consider seeking legislation to enable them to independently determine not refer non-radiogenic diseases to NTPR. VA has decided they will not seek such legislation, believing that Title 38 is unique in that it makes the Secretary of Veterans Affairs not only the administrator of the program but, by statute, an advocate for the veterans. Therefore it is felt seeking such legislation would be inappropriate.

Addressing current issues, **Mr. Pamperin** discussed the replacement for Dr. Neil Otchin, who retired several months ago. He discussed the temporary replacement, the recruitment and contract option, the current backlog of cases and the estimated clearing of that backlog. Essentially **Mr. Pamperin** noted that what is going on, in a larger context, with VA is that there is an unprecedented claims rate. In 2001 VA did over 500,000 disability ratings; in 2007, 836,000. Last year there was a peak of 70,000 rating decisions in a particular month, and in August of this year there were 83,000 decisions. Yet with that level of output, VA has been able to drop the cases more than six months old by about a third. They project ending this year with 860,000 cases being decided, and next year they project there will be received and decided over 900,000 cases. This has been a challenge during the last three months, yet has improved.

Mr. Pamperin indicated that on a 12-month rolling cumulative average, it still takes us about 181 days, to do a disability evaluation, except for a recent change in the veterans' discharge procedure which includes a program called Benefit Delivery at Discharge. In the last three months the processing time for claims has dropped by about 15 days, demonstrating a significant downward trend. And of even greater significance, the average days a case is pending for decision has been dropping as well.

Mr. Pamperin commented that at the same time VA is engaged in the final stages of converting to a new payment system, and is in a major effort with the Department of Defense to facilitate the transition of wounded, ill and injured service personnel through a significantly changed DoD disability evaluation system. He described the changes anticipated, noting that the revised process will occur nationally sometime in the 2009-2010, perhaps 2011 at the latest, time frame. He explained the

improvements the changes will provide, noting that this is a huge process trying to coordinate 134 military treatment facilities, and it is therefore a very busy time in the VA.

Mr. Pamperin called attention to brochures located on a table outside the meeting room. These were developed through the Board and with NTPR. Those will be sent to the Jackson VARO this week for inclusion in the initial development letter sent to all claimants, explaining the process of dose reconstruction, et cetera.

Discussion Points:

- Comments on the NTPR program providing data on veterans who received the highest doses within the atomic veteran community;
- Thanks to the VA for considering a more global outreach to the atomic veterans;
- Scientific issues surrounding the United Nations Scientific Committee on the Effects of Radiation (UNSCEAR) summary report that prostate cancer is not established as a radiogenic cancer;
- Inquiry as to who receives the IRR newsletter;
- Discussion of where the newsletter is placed in medical centers;
- The National Association of Atomic Veterans (NAAV) forwarded its membership mailing list to those involved with the newsletter mailings and it's now being sent to those individuals;
- Discussion of the multi-tiered approach to outreach and an effort to identify atomic veterans currently being treated for presumptive diseases;
- A comment that the 34 percent of cases improperly referred from other VAROs to Jackson would be a good metric to use for assessing the efficiency of centralized claims processing because it puts a major spotlight on the cases related to the community the Board is trying to serve;
- Discussion of improved timeliness of disability evaluations;
- Discussion of global outreach to the atomic veterans and their survivors.

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Public Comment Session

As introduction to the public comment session, **Dr. Zimble** made a brief slide presentation of the responsibilities of the Advisory Board, responsibilities not in the purview of such a board, and how interested parties can follow activities of the Board.

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The first speaker was **Mr. Edward Shaller**, who indicated he was at the Johnston Island nuclear bomb test Johnson Island, 1961/1962 called Dominic I and participated as part of Joint Task Force 8 in the Marine Corps helicopter squadron. He discussed the fact that he had not known anything about the atomic veteran program until he saw a newspaper article about this meeting and decided to attend, and it has been a learning experience.

He indicated he had been in and out of VA facilities throughout his life, and had even asked on occasion if there were Veterans' claim processes for veterans at nuclear tests, but he'd never gotten any answers. He commented that everybody involved in nuclear tests were required to be there by the government, that they had not volunteered or asked to be there. After having witnessed one test and hoping not to be present at another, they were ordered to be on deck.

It was his contention that all people who got the same dose and were exposed to the same testing, even though some contracted diseases and others didn't, should receive the same benefits.

Mr. Shaller questioned the difficulty of locating atomic veterans involved in those tests.

Discussion Points:

- Even though healthy now, it would be a good idea to register in the IRR, which provides a physical examination and an opportunity for a full evaluation and to become a recipient of the IRR newsletter;
- An observation that the Board doesn't make laws, but is executing public laws; this Board is trying to figure out the best way to serve the veteran under the existing laws.

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The next speaker was **Mr. Kenneth Demarais**, who discussed walking his older brother to a bus stop when he was headed for Fort Sill, Oklahoma when he was 11 or 12. He didn't see him for another three years, after the war ended. He discussed how his brother had changed. The brother died of cancer at the age of 49. He had been with the 41st Division in either Nagasaki or Hiroshima.

Over the years he and other family members had tried to find out exactly what his brother had done, just out of family curiosity. The family is not interested in compensation, but wanted to find out what he did.

- It was suggested that **Mr. Demarais**, being in broadcasting, may wish to speak to the public affairs officer from DTRA because they're always looking for ways to make outreach to atomic veterans;
- A suggestion that information be given to **Mr. Demarais**' nephew on the possibility of filing a Radiation Exposure Compensation Act (RECA) claim, which applies to children of individuals who may be shown to be service connected.

Mr. Shaller joined the conversation to inquire about film badges at the test and whether records were kept.

Dr. Blake indicated that the answer to that question for **Mr. Shaller**, as well as the question for **Mr. Demarais** about his brother's military records, might be available through the National Personnel Records Center but they would require a Privacy Act release. **Dr. Blake** commented his staff would be happy to help both of them.

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Before beginning the reports from the subcommittees, **Dr. Zimble** introduced Board member **Dr. John Lathrop** to present his thoughts regarding what VBDR has accomplished, what still needs to be done in various areas, his analysis of the gaps still remaining, and how the Board should address those issues.

Dr. Lathrop commented that he had earlier in the year started with what was called a gap analysis, but since gap has a bit of a negative connotation, he had changed it to need for continuing functions. He reminded the Board of their key accomplishments, which included the expedited RDA processes and audits, auditing and reviewing the VA process with a recommendation to centralize claims, development of the DSS as a major step in quality assurance; press releases, media links, the brochure, et cetera, as part of the communication and outreach goals.

Out of what he considered a long list of remaining challenges and tasks, the two most important ones he indicated were the continuation of the work with NTPR and **Dr. Blake** on the double-blind tests and what they mean for improving the SOPs; and the proactive outreach and how best to do that. He noted that **Mr. Pamperin** had laid out an interesting strategy for that task.

Dr. Lathrop also outlined some general continuing functions that need to be carried forward, noting that the strategic and decision-making work has been done. Although a lot remains to be done, those are tactical things -- technical and tactical implementation, monitoring --

and perhaps continuing activities don't require a Board like this Board, at the scale of this Board, meeting as frequently as this Board.

He concluded by observing that ongoing activities need to be pursued, advised, implemented and monitored by an outside board that basically "has teeth."

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REPORT BY SUBCOMMITTEE CHAIRS

Draft Report of the Subcommittee on Dose Reconstruction (SC-1)

Mr. Harold Beck, Chairman

Mr. Beck began with reminding the Board members of the mandate for this subcommittee. They consisted of three primary tasks: number one, assess dose reconstruction procedures; number two, conduct periodic audits of a random sample of NTPR RDAs; and number three, prepare a summary of the subcommittee's findings and recommendations for Board consideration and approval.

Mr. Beck commented that some of the issues he would discuss would be read into the record from the written report because he wanted to make sure what he said was what the subcommittee had agreed to and he did not want to editorialize.

Mr. Beck described the activities of SC-1 since the September 2007 Board meeting, discussing audit and assessment findings. These now follow the expedited procedures since there are only a few full dose reconstructions performed each month. He described the current audits, progress made, implementation of new procedures, RDA reports to the VA and the veteran, as well as other communications; references in the RDA memorandum, case file documentation, the DSSs, and the quality assurance (QA) program.

Mr. Beck noted that because NTPR is still in the process of implementing some of the recommendations, and some of the cases were completed several months ago, the audited RDAs do not reflect some of the changes in processes already implemented in response to previous findings. Cases completed most recently were better documented than earlier cases, and the most recent expedited case file was better documented than earlier expedited cases.

Mr. Beck discussed future plans for SC-1, noting that they will depend on discussions that occur later at the meeting on the future of the Board itself.

SC-1 suggested that issues for Board discussion are on continuing issues and did not propose any formal recommendations at this time. Continuing issues were discussed briefly: using probabilistic uncertainty assessment, consistent and understandable messages to veterans; continuing communications regarding results of an expedited RDA so that any future claim for a different disease will not be misunderstood; and continuing to support a recommendation that NTPR work with SC-4 to improve presentation of material sent to the VA and the veteran.

Addressing the future of the Board, SC-1 observed the major reason for formation of the Board for audits of the dose reconstruction process has been successfully addressed by NTPR. Whether the Board continues in its present form, some type of continuing and independent outside oversight of the NTPR program is essential. There will be a continued need to monitor communication and outreach issues, as well as to maintain VA/DTRA coordination.

SC-1 suggests that the Board recommend the current VBDR FACA committee be disestablished and that one or more non-FACA advisory committees be established instead to provide continued oversight in DoD/VA coordination of the dose reconstruction and claims adjudication procedures for atomic veterans.

Discussion Points:

- If there are so few full dose reconstructions being performed thanks to the expedited process, would it be wise to recommend that all of those be double-blinded?
- What is the situation within NTPR and DTRA in terms of establishing and maintaining expertise in dose reconstruction?
- A suggestion that **Dr. Elaine Vaughan**, as an expert in risk communication, be involved in communications to veterans;
- A request for a reminder of results of Subcommittee 5 on the discretion NTPR has for determining which diseases should be expedited;
- When a dose is assigned, is an organ associated with it or is it an upper bound from all organs for that particular scenario?
- If a claim is submitted for a particular disease and a maximum dose is given for that, and the veteran subsequently develops a different disease, is the agency required to use with the dose given for the first illness?
- Is there a chance that, when a claims officer looks at the second claim, they could accidentally look at the letter about the dose for the first claim and not send it on to DTRA?

- If a veteran submits a claim for a condition known to be non-radiogenic but his personal health provider has written a letter saying there is a possibility that it could be radiogenic, is there a possibility of VA writing to the practitioner advising him of today's science and the fact that his diagnosis is not likely to be correct and he should perhaps re-examine it?
- Observation that the role of the DSS is not just so communications to the VA and the veteran can be clear, but so that the file itself, the record in DTRA's hands, is clear and that when a case is reviewed it is clearly understood exactly what's been done.

Without objection, the Board voted to accept the report of SC-1.

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Draft Report of the Subcommittee on VA Claims Adjudication Procedures (SC-2)

Dr. Ronald Blanck, Chair

Dr. Blanck noted that SC-2 had reviewed the response from the VA to recommendations from the April meeting. The subcommittee's consultant had been asked to review seven additional randomly-selected cases from the Jackson VARO. SC-2 was not totally pleased with the results of that review. A couple of cases were not processed properly. One presumptive case was processed under non-presumptive, and another valid veteran's claim had been returned. **Dr. Blanck** commented that the VA has actually looked at these, that there is possibly more to the story, and that the consultant may not have been completely correct.

Dr. Blanck discussed other activities of SC-2, the results of their earlier suggestions, specifically regarding the vacancy left by Dr. Neil Otchin's retirement and the need to fill that position.

The subcommittee commended the Jackson VARO on their efforts and hard work in support of its mission to adjudicate radiation claims, observing nonetheless that there seemed to be a few areas where streamlining might be useful and where the subcommittee could make specific suggestions.

Topics suggested for further discussion included periodic refresher training for the Jackson staff about processing radiation claims, VA continue to ensure the Jackson office has the necessary dedicated personnel resources, and response to the previous recommendation number four from the April meeting should be updated and clarified.

Discussion Points:

- Confirmation that SC-2 supported the recommendations of SC-1 on the need for ongoing auditing and review of training processes, et cetera, by an independent entity, preferably non-FACA.

Without objection, the report of SC-2 was accepted by the Board.

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Draft Report of VBDR Subcommittee on Quality Management (SC-3)

Dr. Curt Reimann, Chair

Subcommittee 3 deals with all aspects of quality management in dose reconstruction and claims adjudication procedures, and makes recommendations in parallel with other subcommittees with an eye toward reinforcing their recommendations. **Dr. Reimann** reported on activities of SC-3 between April and September, with their most recent meeting being on September 9.

He reported on SC-3's observations relative to NTPR, and discussed them briefly. They included completion of the documentation system for radiation exposure cases, reducing backlogs, the DSSs, double-blind studies, and the need for a simple and brief guidance document enabling NTPR leadership to outline relationships among the NTPR organizations and support documents.

Observations relative to the VA included the fact that SC-2 continues to report instances of processing errors in its case audits, and SC-3 believes that a new or existing QA device specific to the factors arising in radiation claims could assist the Jackson VARO in reducing such errors.

Discussing the future of the Board, **Dr. Reimann** noted that SC-3's discussions were based only on a review of Board recommendations, accomplishments and ongoing actions, with a conclusion that alternative models for achieving purposes of the VBDR should now be explored. He noted that, from SC-3's point of view, lack of full deployment is of some concern. He concluded by focusing on current open recommendations.

As to future quality activities, **Dr. Reimann** commented that SC-3 will focus on assessing how well VA and NTPR QA plans and systems are being effectively deployed in support of day to day quality output. He remarked there would be particular interest in active use of devices such as metrics and the DSSs, which indicate all checkpoints are being actively managed.

Other quality activities will be monitoring upcoming double-blind studies and how to apply the double-blind concept to expedited cases. **Dr. Reimann** also discussed the use of a system of management metrics to simplify management and Board oversight.

Discussion Points:

- Discussion of a continuation of oversight and advisory committees;
- Full deployment of quality systems;
- The system will have to bridge two Departments and be transparent in terms of metrics and quality issues from VA to DTRA and back to VA;
- Discussion of the value of being a FACA committee as opposed to a non-FACA committee.

The report of SC-3 was accepted by the Board without objection.

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Draft Report by VBDR Subcommittee on Communications and Outreach (SC-4)

Mr. Kenneth L. Groves, Chair

Mr. Groves indicated there would be some differences between his presentation and the printed report based on information received earlier in the day from **Mr. Pamperin**'s presentation on behalf of the VA and the discussion that followed that presentation.

Mr. Groves reported the Board had met eight times in a number of locations around the country, chosen specifically to encourage veteran participation. He discussed the keeping of records at the NCRP office that showed a very active communication with veterans, commenting that no question -- whether by mail, phone or e-mail -- has gone unanswered.

SC-4 has not met in person since the San Diego meeting but has had two conference calls, and they are considering publishing an article in the IRR at its next printing. **Mr. Groves** discussed the importance of the proactive outreach by VA and DTRA to atomic veterans unaware of their eligibility for benefits. SC-4 continues to review and advise concerning letters both VA and NTPR send to atomic veterans.

Mr. Groves reported that SC-4 also feels that many of the recommendations have been made and no new recommendations will be presented by SC-4 today. Although some are not complete, they are being worked jointly between NTPR and the VA.

He observed SC-4 sees a need for continued monitoring and support of the outreach effort, but was unsure whether it should be FACA or non-FACA. SC-4 is sure that some mechanism should be in place to continue that work and that they should continue to work together on outreach efforts.

With no objection, the report of Subcommittee 4 was accepted by the Board.

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Board Discussion Period

Dr. Zimble raised the issue of a letter that had been received from a claimant who was angry and felt he had not been dealt with fairly regarding his radiation-related claim. He observed that the claimant did not understand the situation, and both DTRA and the VA have tried to explain the matter to the claimant to no avail. This particular issue deals again with the communication regarding expedited doses and actual doses.

Discussion was difficult because of Privacy Act concerns that specifics might reveal identifying information, but the topics included a discussion of RECA payments and the entitlement of any citizen to know how much disability payment is being received from VA.

Dr. Elaine Vaughan, consultant to the Board in the area of risk communication, observed that the case brings up important principles about the basis of outrage and noted that there are things that can be done in communicating in a final letter to this claimant, or anyone else in this category, which could increase the chances the person will feel satisfied. She remarked that a person has to feel he or she is being treated fairly, because that is generally one of the main components of outrage, regardless of the decision or specifics of the case.

Dr. Zimble requested that **Mr. Pamperin** respond to the claimant and make every effort to explain that he has been treated fairly. It was observed that the claimant seems not to understand the distinction between expedited doses and full dose reconstructions.

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Review of the VBDR charter followed, with discussion regarding changes in the mission of the Board. It included the observation that, in

Paragraph (e), renewal of this charter allows the Board to meet. Without a charter it cannot meet; however, charter renewal has nothing to do with the Board's tenure. Its tenure is defined by statute.

There was discussion regarding the reduction of the number of Board members and the addition of more consultants while still observing FACA requirements.

Brigadier General Manner requested that **Mr. Eric Wright** put together three or four courses of action for the Board to consider at tomorrow's meeting, with the proviso that should the Board choose one of the options it would be with the understanding that it would be subject to legal review.

Mr. Wright agreed, noting that the issue cannot be bounded just by FACA; there is a legislative piece involved as well, which will require Legislative Affairs to be part of the process.

Dr. Lathrop provided the criteria to be considered, in his opinion as a decision analyst, assembled from today's discussions. They included the ability to obtain necessary information from interaction with the two agencies, expertise, organizational will to pursue the Board's mission, ability to have recommendations complied with by the agencies, funding, and ability to meet effectively.

A motion was made and seconded to adjourn for the day, with the discussion to continue the following morning.

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Thursday, September 11, 2008

Call to Order and Opening Remarks

Dr. Zimble called the meeting to order at 8:59 a.m., reminding everyone that it was the seventh anniversary of the terrorist attack on 9/11, and asked that at 9:00 o'clock the assembly stand for a moment of silence.

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Public Comment Session

Dr. Thomas S. Tenforde, President of the National Council on Radiation Protection and Measurements (NCRP), spoke to announce the departure of **Dr. Isaf Al-Nabulsi**, who was taking a position with the Department of Energy in the Office of Health and Safety. **Dr. Tenforde** wanted to take

this opportunity to express appreciation for her service to the VBDR program as its administrator for the last three and a half years.

He assured the Board that NCRP will take all steps necessary to ensure continuity of its administrative and technical services. In furtherance of that goal they were expanding the role of **Mr. Thomas Bell**, technical consultant, to assume many of the administrative responsibilities that had been carried out by **Dr. Al-Nabulsi**. He remarked that **Mr. Bell** had been doing many of the independent RDAs as part of the double-blind studies in support of SC-1's work.

Dr. Tenforde discussed further activities of **Mr. Bell**, providing information on how he could be reached, and that other members of the staff would remain in place. He also provided background information on **Mr. Bell** to demonstrate his qualifications for the new responsibilities.

In conclusion **Dr. Tenforde** announced that Board member **Dr. John Boice** has been selected by the NCRP Board of Directors as the 33rd Lauriston S. Taylor lecturer in 2009. He explained this is an honor conferred only on scientists who have made major contributions to radiation protection and measurement and have a long career of distinguished contributions, which indeed is the hallmark of **Dr. Boice**'s career. He announced that his lecture would be at the 45th annual NCRP meeting in March, 2009 in Bethesda, Maryland and indicated how to get further information on that meeting.

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Dr. Zimble called **Dr. Al-Nabulsi** forward and described to the assembly her many contributions. He remarked that she would indeed be missed.

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Continuation of the Discussion Regarding the Future of VBDR

Five courses of action were presented for consideration, each consisting of a proposed number of Board members, proposed number of annual meetings, and committee actions required to further that proposal. The first was to remain at 16 Board members, no change; with two to three meetings per year, also unchanged; and requiring no Board action.

Option two was to reduce the number of Board members to six, which is required by law, with one annual meeting. In order to implement this action, the Board would have to vote and present recommendations

supporting this action to the agencies.

Option number three was to reduce the number of Board members to eight, or some other number, with one or more meetings per year, and would also require a vote and presentation of the recommendation to the agencies.

Number four left the Board member number at 16, with no meetings. The Board action would be to not renew its charter and recommend disestablishment to the agencies and the General Services Administration.

The fifth course of action would be to change to a non-FACA board, the size and number of meetings to be discussed. This change cannot be implemented without Congressional authority and will take some time in order to implement, possibly until 2011.

A reminder was offered that another option had been mentioned or discussed earlier, which was combining this Board with another existing board, perhaps as a subcommittee of another existing board. **Brigadier General Manner** observed that the Board charter cannot be changed because it is Congressionally mandated, so that action would require Congressional approval. And while possible, it is again something that would take a considerable amount of time.

Options and suggestions were discussed. As the present charter is on its way through the renewal process, the Board can continue to meet for another year with no problem and has also been budgeted for another year.

Other Discussion Points:

- The issue of quorum if the number of Board members is reduced significantly;
- The charter does not mandate what a quorum is, and a simple majority could be the option;
- Rather extensive discussion of the value of remaining a FACA entity, resulting in the suggestion that changing to a non-FACA entity be taken off the table for the time being;
- Discussion of the consideration to stay at 16 or 17 Board members and meet only once per year;
- Discussion of current Board members coming off, if they wished, and serving as consultants;
- An observation that, whatever the Board's future structure and mission, it will continue to offer recommendations to its sponsoring agencies, but they will be relatively small "process"

recommendations rather than the former major "structural" recommendations;

- The focus of the Board is changing to that of monitoring and auditing;
- There is no mandate requiring the reduction of the size of the Board;
- There is only a legal minimum, and the size of VBDR can be whatever is needed to do its work;
- The work of the Board can be done with fewer members: however, it will have to be done differently from how it has been done in the past, which, if additional consultants are required, may be more expensive.

Dr. Zimble made the observation that what has to be addressed today is a Board recommendation for its future structure and role.

A suggestion was made that since the carry-on work to be done falls under the same Board general categories established at the beginning, perhaps what should be done is to suggest a Board of eight with two members in each general category of expertise. As far as consultants, other than auditing, there is not much need for consultants. That suggestion fell generally into course of action number three, and included would be **Mr. Pamperin** and **Dr. Blake** as representatives of the VA and DTRA, as required, which would raise the number of members to ten.

An observation was made that there is general agreement that a transition is appropriate; but not everybody agrees on where the Board is in that transition, and possibly a year or so would give a better view of what the transition should involve. That would allow the Board recommendations for programs and metrics which have been made to be more firmly established.

A suggestion was made that perhaps each of the subcommittees should be asked to modify their charters and come back to the Board with a proposal on how they want to do business in the future, perhaps at the next meeting. It was remarked that the Board was not supposed to finish its job and go away in four years. It can transition, and a problem with trying to make a firm decision is that a year from now something else may be needed, so whatever is decided has to be flexible. But a continuing function must remain to satisfy the oversight requirement mandated by Congress.

Mr. R. J. Ritter suggested that, from the atomic veteran community standpoint, they are just gaining faith in the Board and know the Board is working for them, seeing the results of meetings and subcommittee meetings, and how the participation of VA and DTRA has made changes. Perhaps under the circumstances it's right to maintain a Board but meet only once annually, and have subcommittees meet as necessary. That way

the atomic veteran community would know the Board is still looking out for their best interests.

Dr. Boice observed the Board will not go on forever since there is a finite limit related to the age of the atomic veterans. When the Board began there were 450,000 and now there are 225,000, with the youngest age roughly 65. There is a high mortality rate, so in perhaps ten years, based on age alone, there may not be enough claims to justify the Board, so this is a short-term issue to be considered. Under those circumstances it seems easiest for the Board to stay as it is, meet less frequently, and those Board members who want to retire can do so, reducing the size of the Board by attrition.

Dr. Boice also addressed **Dr. Reimann**'s earlier suggestion that since this Board's format had worked so well, it could be adapted for other circumstances. He observed that there's no way for other people to know about it unless it is written up while it's still fresh, outlining the goals, what was done, and published as a report on the agencies having worked together. That could be a recommendation for the Board as a group, or for the communications subcommittee, to present what's been done, how it worked, get input from the agencies, and produce it in some format that it can be passed on to others. **Dr. Blake** and **Mr. Pamperin** both agreed that the publication of a report on the progress and actions of the Board would be very appropriate, and elaborated on their perspective of the preparation of the report.

> **A motion was made and seconded to recommend that, in this time of transition, the accomplishments and processes of VBDR as a FACA board be written up so that it can be in the public record, discussing approaches that have been used, successes and failures.**

The motion carried unanimously.

A question was raised about the ongoing outreach and how major changes in the Board's structure would impact that if there is an outreach with a group of veterans who are new to the program and would like to come to meetings, only to find there are none.

Another observation related to the increased outreach is the number of claims that are going to come in because of great expectations, and the problem that arises if they get denied. **Mr. Groves** remarked that it was fortuitous that they had reached their current point before the decision was made to take on what could be a significant outreach, in that all of the organizations that will have to respond have been aligned in the event of a large number of claims in order to handle them in an efficient manner, and communicate to them a perspective of

what their expectations should and could be. He noted that SC-4 is prepared to go forward with its role in supporting that activity.

The three targeted cohorts with the highest radiation exposure, although all are small, include the pilots, the personnel at weather stations, and the forward observers. He added that SC-4, in consultation with **Mr. Pamperin**, will put this together in the form of a plan of action to document how to start the activity and go forward.

Dr. Zimble opined that the sense of the Board is to pursue course of action number one, that there not be any major changes right now, see what the work requires of the Board and perhaps over the course of the next year assess the changes which may be necessary. Board members who so desire will be allowed to retire, with their replacement as necessary.

He suggested the Board recommend that it feels it has reached a milestone and is ready to transition into more of an oversight role, and asks that agencies consider legislation to provide a sunset provision. He asked **Dr. Lathrop** to prepare a letter to go to the heads of both agencies, with copies to appropriate addressees, stating that the Board is prepared to make a transition, the rationale for that transition, and the recognition that there needs to be a sunset provision in the law. This of course will be completely separate from the document on the history of the Board and its accomplishments.

Dr. Zimble asked each subcommittee chair to outline the direction they planned for their subcommittee going forward. The chairmen did so, with a suggestion for another meeting in six to nine months **Dr. Zimble** asked that at the next meeting the subcommittee chairmen be prepared to provide any new modifications of their individual subcommittee charters for Board approval.

Discussion turned to a suggestion that the site for the next, and possibly all subsequent meetings, be in the Washington, DC area. **Dr. Zimble** commented he had discussed the matter with **Dr. Blake**, **General Manner** and **Mr. Wright**, and that there may be a meeting facility under the auspices of DTRA so there will no longer be the expense of the hotel accommodations for meeting space. They will ensure that it is convenient in terms of transportation, adequate parking and hotel facilities for Board members and the public

There was a suggestion that, since the Board had started its public meetings in Tampa with the annual meeting of the National Association of Atomic Veterans, the Board consider having one of its last meetings also in conjunction with that group, which now meets only every two years, with the next meeting being in New Orleans in the fall of '09.

Mr. Ritter announced the 2011 meeting will be in Virginia

It was agreed that the next meeting of the Board would be scheduled for June 9, 2009 for subcommittee meetings and June 10 for the public Board meeting. The need for a second day of the Board meeting was thought to be unnecessary under the new structure.

It was further agreed that this is a tentative date, and that **Mr. Bell** will send all the Board members a calendar for June with those dates so that everybody can check their individual calendars for conflicts.

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Following closing comments from **Brigadier General Manner** applauding the members of the Board for what they have accomplished in serving the veterans better than they were being served in years past, a motion was made and seconded to adjourn the meeting.

With no further business to come before the Board, the meeting was adjourned.

End of Minutes

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I hereby confirm these Summary Minutes are accurate, to the best of my knowledge.

/s/

James A. Zimble, VADM, USN (Ret.), Chair

December 5, 2008

Date