

**NOAA ADVISORY COMMITTEE FOR COMMERCIAL REMOTE SENSING
(ACCRES)
OPEN SESSION MEETING SUMMARY
August 27, 2004**

OPEN SESSION

The NOAA Advisory Committee for Commercial Remote Sensing (ACCRES) convened at 1:00 pm at MITRE Corporation, 7515 Colshire Drive, McLean, Virginia.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public.

The Chairman, Kevin O'Connell, thanked Committee members and members of the public for attending the fifth meeting of ACCRES. He invited everyone who was not at the closed session to introduce themselves.

Committee Members Present:

Mr. Joseph Dodd, on behalf of Mr. Robert Dalal, Space Imaging, Incorporated
Mr. Martin Faga, MITRE (Vice Chair)
Dr. Joanne Gabrynowicz, National Remote Sensing and Space Law Center,
University of Mississippi
Dr. Barbara Ryan, on behalf of Dr. Charles Groat, US Geological Survey
Mr. Franklin H. Williams, Jr., AstroVision International, Inc., on behalf of
Michael Hewins
Dr. Joe Straus, The Aerospace Corporation
Dr. Donald Lauer, American Society for Photogrammetry and Remote Sensing
Mr. Robert Weber, National Geospatial-intelligence Agency
Mr. Kevin O'Connell, RAND Corporation (Chair)
Mr. Douglas Hall, Earth Satellite Corporation
Mr. Frank Koester, ITT Aerospace, representing Mr. Richard Cooke, Research Systems,
Incorporated
Mr. Herb Satterlee, DigitalGlobe, Incorporated

Presiding Staff of the National Oceanic and Atmospheric Administration (NOAA):

Mr. Glenn Tallia, Senior Counselor for Atmospheric and Space Services and
Research Office of General Counsel
Mr. Timothy Stryker, Chief, Satellite Activities Branch, International and Interagency
Affairs Office, NOAA Satellite and Information Services and ACCRES Designated
Federal Officer

Briefing on NOAA's Program Planning Budgeting and Execution System (PPBES)

Mr. Stryker provided an overview of the Commercial Remote Sensing Licensing (CRSL) Program's integration within NOAA's new strategic planning and budgeting system, PPBES. He invited the Committee's comments. PPBES allows CRSL to be more performance-based.

Mr. Stryker provided an overview of NOAA's vision, strategy, and goal teams as they relate to CRSL. He explained the importance of the industry, emphasizing that government and private sector users are served by a healthy industry. He defined the roles of each government agency involved in the CRSL process.

Mr. Stryker then provided specifics about what NOAA is doing to improve the program. He described the program's capabilities and short-, medium-, and long-term goals. He explained that the compliance aspect of the program is in transition now, with new staff being hired.

Briefing on Commercial Remote Sensing Program Performance Measures

Ms. Renee Leduc Clarke presented CRSL's performance measures, which were developed this year. She noted that at present NOAA is focusing on timeliness performance measures for license applications. In the future, NOAA will expand these measures to include foreign agreements and license amendments.

Ms. Leduc Clarke provided an overview of the timeline followed when reviewing licensing applications and provided an example. She noted that NOAA will share performance data with its interagency partners as part of its effort to address internal and external choke points in the review process.

Karen Dacres, an attendee from the public, asked whether the data would be shared at the management or working levels. Ms. Leduc Clarke said it would be shared at the working level interagency meetings monthly. Mr. Stryker added that it was NOAA's intention to inform partner agencies at all levels for better impact. He noted that the data is instructive, and illustrates to all participants how much time elapses during each stage of the license review process.

Ms. Leduc Clarke said that NOAA is seeking the Committee's feedback to ensure it is tracking the correct data. Mr. O'Connell suggested that the Committee, which had discussed separating routine applications from novel applications in the past, should consider means to novel from routine licenses in the past, should consider a means to analyze the added interagency review time for the latter. He said the Committee should seek to address issues of concern to the agencies at this point in the process.

Mr. Weber said that the U.S. government is still in a risk aversion mode. The focus is on protection of intelligence sources and methods in an effort to avoid risk. Precedent-setting licenses put new data in the public domain that some would claim should not be

there. Mr. Weber said academic material proves that there are many non-U.S. data sources, but this information by itself has less bearing on the USG than does the knowledge of what foreign countries are working on while we debate. He noted how strongly people disagree about these issues at the staff and leadership levels. Mr. Weber suggested working across government departments.

In response to a question, Mr. Stryker replied that there is some stove-piping inside agencies, but less than one might think. He noted that the intelligence and defense communities appear to be coordinating closely throughout the process. He suggested frontloading issues for debate as much as possible and elevating unresolved issues more rapidly.

Mr. O'Connell noted that the new policy sets the bar higher, since the United States is seeking the best available capability. Mr. Weber said law is recognized more than policy, and this has an impact on the structure and foresightedness of the CRSL process.

Mr. Stryker reiterated that NOAA would welcome additional comments.

Licensing Coordination Activities

Mr. Stryker said NOAA was currently reviewing its existing regulations, in consultation with other USG agencies. He said that recent experience has shown there is no need to make major changes, just some minor modifications and updates. These would include new linkages to the 2003 U.S. Commercial Remote Sensing Space Policy. In addition, there is an emphasis on frontloading the process to avoid delays mid-process in terms of application completeness.

Mr. Weber suggested that completeness review also include information on up-front information on foreign competition. He said that one challenge for the USG is to determine whether competition is a credible and emerging, and that the licensee will need to put any competition issues in context. Committee discussion seemed to support this idea. Mr. Weber said the licensee should briefly state its developmental goals and how/if they relate to the intentions of competing foreign organizations.

Mr. Stryker continued on the regulations update, and said that NOAA expects to include developmental milestones for licensees, in a manner similar to those used by the Federal Communications Commission. These milestones would allow NOAA's CRSL program to devote more staff time and resources to those companies which need them most.

Finally, Mr. Stryker noted that the new regulations provide a more complete description of civil penalty procedures. These regulations should be out at the end of the calendar year for public review, and there will be a notice in the Federal Register at the time of review.

Mr. O'Connell asked Mr. Stryker and Dr. Gabrynowicz whether NOAA or the USG was engaging in further research work on foreign laws, regulations, and policies. Mr. Stryker

said that NOAA was considering funding for a study in the coming fiscal year. He also noted that NOAA is privy to non-public information through its participation in bilateral Government-to-Government consultations. However, this information could not be shared outside of Government channels. In his view, a good open source study which could be broadly shared would be beneficial to policy-makers and industry stakeholders alike.

Dr. Gabrynowicz said she would be happy to continue her research on this topic, though preliminary data indicates many gaps. For example, Canada is relatively easy to research and understand; however, she has gone to sources and found that the information has not changed in three years. One has to be prepared to hear that information may not be available or has not changed.

Organization of Economic Cooperation and Development (OECD) Space Policy Study

Mr. Stryker provided a presentation on the OECD Space Policy Study, which has been supported by NOAA. He explained that this study provides the opportunity for the USG to gain a fresh perspective on the commercial remote sensing industry. The study may provide findings supportive of NOAA's regulatory and policy efforts and will hopefully allow for a more coordinated international approach to CRS issues. The study may also help discern things that many are aware of while providing a neutral format.

Early on in the study, NOAA hosted a working group of seven North American companies, with participation and leadership from OECD staff. The group provided useful insights on government policies (regulatory and procurement), government-industry relations, and business models. Following this meeting and the work of other industry subgroups (e.g., telecommunications, launch, positioning/navigation, and space tourism), the OECD published some initial findings in a report entitled Space 2030.

The overall OECD project has been going on for two years and should be completed by next year. The OECD will provide its final report and analysis in the context of various possible political, social-economic, energy, environment, and technical factors. The OECD will likely make recommendations on areas for action that will apply to Earth observations and remote sensing.

Some meeting participants had yet to received copies of the study's initial findings from NOAA. Mr. Stryker agreed that NOAA would provide copies to all Committee members and/or their meeting alternates.

ACTION: NOAA will send copies of the OECD study to Mr. Hall, Mr. Koester, Ms. Ryan, and Dr. Gabrynowicz.

Other NOAA Activities

Mr. O'Connell announced that, as part of the committee work plan, ACCRES will provide for a subgroup to examine new applications and technologies that are likely to be requested for licenses. This was discussed in the closed session, as well.

Commercialization and Privatization Issues

After an introduction of the subject by Mr. O'Connell, Dr. Gabrynowicz discussed the difference between commercialization and privatization. She said the two terms are not interchangeable. Privatization is an asset funded by the government with the intention of transitioning it into the private sector. Commercialization refers to policies and laws that support a successful environment for a particular activity; for example, a tax break. Dr. Gabrynowicz noted that in Europe, Japan and Canada, the term "commercial" is defined by what is being done, not who does it. If an activity generates revenue, it is commercial. In the United States, commercial activities are defined by the entity that is acting.

Dr. Gabrynowicz suggested that, within this context, some creative business-government arrangements may be possible. She noted there is a new convention under negotiation called UNIDROIT which seeks to clarify legal/policy areas that make it difficult to finance satellites. The drafters intend it to function like the UCC for satellite financing. She noted the applicability of this approach to commercialization and international remote sensing issues. Group discussion emphasized points of clarification, difference among countries, examples of interesting business models, and the fact that there are many shades of grey with these matters.

Meeting Schedule for FY2005

Two dates were proposed for the next meeting: December 16, 2004 and February 2, 2005. NOAA will poll the members and choose the day during which the majority of members can attend.

[Note: NOAA has subsequently scheduled ACCRES-6 for February 2, 2005, in the Washington area.]

Public Comment Period

There were no public comments. The Committee will also accept written comments. They should be directed to Timothy.Stryker@noaa.gov.

The Committee meeting was adjourned at 4:05 pm.