

INTERGOVERNMENTAL MEETING WITH THE
U.S. DEPARTMENT OF ENERGY
NOVEMBER 9, 2005
EXECUTIVE SUMMARY

On November 9, 2005, representatives of five Intergovernmental Groups—the National Governors Association (NGA) Federal Facilities Task Force, the Energy Communities Alliance (ECA), the State & Tribal Government Working Group (STGWG), the National Association of Attorneys General (NAAG), and the Environmental Council of the States (ECOS)—convened for their third annual joint meeting with the U.S. Department of Energy (DOE) at L'Enfant Plaza Hotel in Washington D.C. This joint meeting is designed as a way for DOE officials to communicate with all of its key interest groups at once, and vice versa, as well as an opportunity for the individual groups to communicate and learn from each other. Key topic areas for this meeting included long-term stewardship, natural resource damage assessment (NRDA), waste management, and the state of Environmental Management (EM) as presented by the new Assistant Secretary of the Office of EM, James Rispoli. Meeting presentations and materials are available [on-line](#).

Panel on Participating Organizations' Priorities

Moderator: Doug Frost, DOE-EM. Participants: Armand Minthorn & Tom Winston, STGWG; Mike Wilson, NGA Federal Facilities Task Force; Paula Carter, NAAG; Jon Sandoval, ECOS; Kevin Phillips, ECA Chair

- Armand Minthorn stated DOE should take their role as a trustee very seriously and noted that the tribes share many of the same interests and concerns as the states.
- Tom Winston said STGWG is involved in a number of important issues including: transportation, long-term stewardship (LTS), complex-wide integration issues, reviewing DOE funding, and improving waste management and disposition strategies.
- Mike Wilson of WA reviewed the recent history of intergovernmental relations with DOE and reiterated that improved communication is a high priority issue for NGA. He noted that the best success comes in times of good collaboration and increased communication with the states, tribes, and local governments.
- Paula Cotter explained that NAAG has moved from working on individual site issues to common complex-wide problems including LTS and NRDA.
- Jon Sandoval of ECOS emphasized the need to respect the state role in cleanup – state and local groups have objectives and a purpose and it is important to sort out individual roles and responsibilities (between local, state, and federal actors).
- Kevin Phillips of ECA said his organization is focusing on and re-emphasizing three main issues: local involvement in decision making (results from working with DOE could be more palatable), economic stability and accountability, and emergency response and transportation.
- The panel noted frustration with DOE's discussions on a budget matter: the cut of \$100 million from the Hanford treatment plant may slow or delay construction for five years. A panelist encouraged groups to express their budget concerns on Capitol Hill and to keep an eye on the overall DOE-EM budget during these fiscally tight times.

State of EM: James Rispoli, Assistant Secretary of Energy, Office of EM

- Assistant Secretary Rispoli said DOE's commitment to cleanup is unwavering. Safety, construed broadly, is the number one priority. Safety includes leaving a safe legacy. DOE is working to continuously improve its performance. He asked that we all respect each others' good intentions and work to succeed through constructive and mutual support.

- Mr. Rispoli said that he and Secretary Bodman intend to respect DOE's agreements with Native American tribes – he reaffirms their commitment to the Indian Policy (Title V of the Energy Policy Act is administered by the Office of Indian Energy Programs). He said the tribes can expect to see something more formal on this early next year.
- Mr. Rispoli emphasized the importance of DOE's work at Hanford, despite recent Congressional budget cuts. He said he spends about 25% of his time working on issues related to Hanford and the site receives about 30% of the EM budget.
- EM performs approximately \$6.5 billion worth of work per year; mostly through contracts. Given this fact, DOE intends to set up an office and assistant secretary level position for Acquisition and Project Management in order to improve performance based management of contracts within DOE.
- The top milestones for DOE-EM going forward include: transforming EM into a high performing organization (only 64% of cleanup projects are within budget constraints and on schedule in 2005), improving project management with proper oversight and planning, and working on a human capital management program.
- DOE-EM is interested in working with partners to continue contracting with small businesses. Mr. Rispoli emphasized that every site is unique and closure sites have clear goals. However, long term sites or non-closure sites are much more complex in terms of managing cleanup activities.
- DOE is committed by executive orders and other rules to request sufficient funding to meet all regulatory obligations; DOE-EM is looking for a balanced approach in consultation with partners.
- Mr. Rispoli noted that some contractors are constrained by a lack of nuclear *expertise*, not by lack of funding.
- DOE-EM looks to the lead site manager (e.g., the Office of Science is the lead at Oak Ridge) to ensure coordination across program offices at sites where multiple program offices are present. EM feels this must be a collaborative process and the communities should recognize that everyone is trying to do the right thing.

Panel: Long-Term Stewardship and Lessons Learned from Closure Sites

David Geiser, DOE-Office of Legacy Management (LM); Robert Goldsmith, DOE-EM; Seth Kirshenberg, ECA; David Abelson, Rocky Flats Coalition of Local Governments; Robert Geller, Missouri DNR; Tom Winston, Ohio EPA

The PowerPoint presentations by David Geiser, Robert Goldsmith, David Abelson, Robert Geller, & Tom Winston are [on-line](#).

- Bob Goldsmith said the new “Terms and Conditions” documents written in partnership with LM will serve as a model for partnerships with other offices (within DOE). He also noted that DOE-EM works very closely with LM on LTS issues.
- Seth Kirshenberg discussed the status of ECA's study of lessons-learned at three sites: Rocky Flats, Mound, and Oak Ridge. The new report will be titled *The Politics of Cleanup*. Interviews have been completed at each site and the ECA team will soon interview Congressional staff members on Capitol Hill. A draft of the report is expected in March 2006.
- David Abelson said that cleanup is not just about risk reduction. Completing good cleanup projects means finding success for everyone. Communities must consider several questions: what does “cleanup” mean? What does “protect” mean?
- Bob Geller highlighted five keys for success, based on experience at Weldon Spring. These are: a shared vision of the future; a complete LTS plan; defined roles for stakeholders; enforceable agreements; and monitoring with the ability to effect modifications if needed.
- Tom Winston compared and contrasted the status and lessons learned from the Fernald and Mound sites.
- David Geiser reminded participants that local government roles are directly related to their interest and capacity – at some sites there are very active or robust local government groups, in other cases there is very little or no representation from local entities. LM seeks to work with those who are willing to form partnerships and who have the capacity to become involved.

- During audience Q&A, Russell Jim, a STGWG member from the Yakama Tribe, said there are many complexities involved in LTS planning: treaties, technology, issues of trust & responsibility, and standards to protect all people.

Panel: Natural Resources Damage Assessment

Shelly Hall, Department of the Interior; Andy Fitz, WA Office of the Attorney General; Larry Groner, Department of the Air Force; John Bascietto, DOE – Office of Environment, Safety & Health (EH)

The PowerPoint presentation by Shelly Hall on NRDA statutes and background is [on-line](#).

- Shelly Hall said there are opportunities coming up to provide public comment on documents produced by the Department of the Interior's (DOI) recently-chartered Federal Advisory Committee on the evaluation of NRDA rules.
- Andy Fitz discussed the Holden Mine site in Washington state, an area surrounded by wilderness on three sides, where tailings were deposited on wetlands. The site will need a long period of remediation to control the accumulation of fercrete, a cement-like substance containing iron, gathering on the bottom of Railroad Creek. He cautioned that a remedy in any natural resource damage (NRD) case may not provide for full remediation.
- Larry Groner said the Department of Defense (DOD) (like DOE) is often the trustee and the Potentially Responsible Party (PRP). DOD takes its affirmative role as a trustee seriously and the agency integrates NRDA into the cleanup work for a variety of reasons. Mr. Groner discussed several specific NRD cases.
- John Bascietto, DOE-EH, stated that NRDA work has become extraordinarily complex at Hanford due to litigation. He said DOE feels NRD work is proceeding fairly well at the Savannah River Site (SRS) and Oak Ridge (they have recently obtained conservation easements).
- Ray Givens, a lawyer who has represented the Yakama tribe, explained one of the strengths of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is that the NRD provisions allow for spreading the cost, which is typically borne locally, of residual waste on a national basis. He emphasized that groups who want to participate in NRDA processes should not be made to feel guilty (for any efforts to receive federal funding) – current lawsuits reflect that DOE has decided not to integrate injury assessment and risk assessment in much of their on-site work.
- A participant from Aiken County, South Carolina said DOE is treating the Community Reuse Organization differently than other groups. There is significant frustration on NRDA issues in Aiken County.

Update on DOE's End States Initiative

Moderator: Robert Goldsmith, DOE-EM. Participants: Gregory Simonton, Southern Ohio Diversification Initiative; Jim Woolford, EPA; Shelly Sherritt, SC Department of Health and Environmental Control; Willie Preacher, Shoshone-Bannock Tribes; Joni Arends, Concerned Citizens for Nuclear Safety (CCNS)

The PowerPoint presentation by Robert Goldsmith, DOE-EM is [on-line](#).

- Greg Simonton said they have concerns with the End States vision document in Southern Ohio.
- Jim Woolford observed that DOE's ability to stand down or back off the end states process has been a good thing – there has not been much outreach on the subject this year. He also announced that EPA recently completed a study on LTS strategies with four main recommendations (the report is entitled *Long-Term Stewardship: Ensuring Environmental Site Cleanups Remain Protective Over Time*). He cautioned participants about the importance of recordkeeping: he cited the example of Lowry Air Force Base near Denver which closed in 1994. People moved there not knowing about the asbestos contamination left on the site, illustrating that the community's collective memory of the problem disappeared within five years.
- Shelly Sherritt noted the state of South Carolina has not seen a clear cut process for including the community's goals or vision into the end states vision documents. She said the revitalization of this process comes when we clearly define how to incorporate the community's interest – this requires a focus on timing and communication.

- Willie Preacher expressed the tribes' desire to look at the state of the land before the federal agencies came along. Tribes prefer to clean up an area to ensure it is as close as possible to pre-industrial times. DOE and others should consider the cost reductions gained by completing cleanups to the maximum level because it will save on long-term stewardship costs.
- Joni Arends said her organization is concerned with the lack of public involvement in the end states process. In New Mexico, the current end states vision documents for both Sandia and the Los Alamos National Laboratory have been folded into a consent order (the public does not have access). In addition, the alliance for Nuclear Accountability (ANA) and its partner groups have other frustrations: (1) The FY2007 EM budget will not be adequate (and the unfortunate need to have to fight this fight every year), (2) DOE's effort to revisit policy 455.1 is good—the policy should emphasize compliance with existing agreements, (3) ANA and local groups continue to insist on improved public participation, and (4) ANA and CCNS are against reprocessing – the proposal, in their minds, will not solve national repository problems.
- A participant from Hanford said they have had positive experiences with the end states process at Hanford, including successful collaboration between different stakeholder groups.

Waste Disposition Strategy

Christine Gelles, DOE-EM, Director, Office of Commercial Disposition Options

The PowerPoint presentations by Christine Gelles, DOE-EM are [on-line](#).

- Christine Gelles delivered PowerPoint presentations on behalf of herself and Frank Marcinowski, who had a last minute conflict.
- The first draft of the National Business Strategy (phase I) was released publicly by DOE-EM in March this year — DOE-EM has been revising and expanding the document while also working to complete a data call with the sites.
- Ms. Gelles said she is planning on sharing the next draft of the National Business Strategy with the public and other groups including STGWG and local tribal representatives in March 2006. She considers the strategy to be “a living document” – a tool or guide that will need to be updated and revised periodically.
- Ms. Gelles expects that web-based disposition maps will be available in spring 2006.
- Armand Minthorn noted Assistant Secretary Rispoli's reaffirmation of the DOE Indian Policy. Regarding the National Disposition Strategy, he said tribes have concerns about risk analysis and transportation issues tied to the Strategy. The tribes are not the same as “the public,” and they are interested in learning how DOE is planning to initiate government-to-government consultation about the Strategy.