

**STATE AND TRIBAL GOVERNMENT WORKING GROUP (STGWG)
MEETING WITH U.S. DEPARTMENT OF ENERGY
MAY 12-13, 2004
SANTA FE, NEW MEXICO**

KEY OUTCOMES

GENERAL

- STGWG appreciates the participation of DOE senior managers and all presenters at the meeting.
- Prior to the meeting, STGWG enjoyed a tour of Los Alamos National Lab and visits to the Pueblo of San Ildefonso and the Santa Clara Pueblo.
- Mary Ann Fresco, Director of the Office of Diversity and Outreach, National Nuclear Security Administration (NNSA), participated in the tour and meeting and stated that she took note of the concerns expressed by STGWG and will relay them to Ambassador Brooks and others at DOE. She suggested several innovative ways to enhance interaction with NNSA.

DOE UPDATE

- Gene Schmitt, Deputy Assistant Secretary for Environmental Cleanup and Acceleration, provided an update on the DOE FY05 budget, organizational changes at DOE, top to bottom review implementation, Risk-Based End States program, the Tribal Summit and follow-up, the Environmental Management (EM)/Legacy Management (LM) transition and contracting, among other issues. Mr. Schmitt fielded questions on a broad array of EM and Department issues.

TRANSPORTATION

- Jay Jones, DOE Office of Civilian Radioactive Waste Management (OCRWM), presented an overview of the planning for Yucca Mountain shipments including security, route planning, emergency preparedness, and related issues.
- There is coordination between OCRWM and EM regarding the shipping routes. There is a list of Tribes directly affected by the transportation plan that includes those located along the rail and highway shipping routes. If a Tribe is close to but not on the route, a check should be made to see if the Tribe is on the list.
- Issues to be resolved for rail shipment of waste to Yucca Mountain, NV, include:
 - Whether shipping will be by dedicated train;
 - Transporting waste from Caliente, NV, to Yucca Mountain since no rail line is currently in place on that route.

WASTE ISOLATION PILOT PLANT (WIPP)

- Alton Harris, Office of Federal Disposition Options, discussed the status of the WIPP site. Panel 1 at the site is full and closed; there are 18,000 drums in the panel. Interactions with stakeholders near WIPP have improved.
- There are several applications pending that would expand the type of waste and the way it is packaged/tested/received.
- New Mexico reported that their staffing levels in this area have affected their ability to review permits.
- DOE is using the Configuration Control Board to try to maximize efficiency in shipments from a complex-wide perspective.
- Rail shipments to WIPP are not planned at this point.
- During this session, the proposed redefinition of high-level waste (HLW) arose. There is keen state and tribal interest in this issue, especially in the process that will be used. STGWG members committed to communication between the states and Tribes as events unfold.

RISK BASED END STATES (RBES)

- John Lehr, Office of Environmental Management, provided an overview of the Risk-Based End States program including the current status and timelines.
- STGWG members expressed a number of concerns about the way RBES has unfolded. These include cost being perceived as too great a driver, the role RBES should play in decision making, difficulty in applying RBES to sites nearing cleanup completion, and poorly implemented public and regulator interaction at some sites.
- STGWG Tribes voiced concerns that DOE personnel working on this issue are unfamiliar with treaty law and that there has been no effective consultation with Tribes. Thus, there is a perception that treaty obligations are being ignored. DOE agreed that RBES needs to be repackaged and presented to Tribes in a government-to-government approach.

TRIBAL ISSUES

- Herb Jones, Deputy Assistant Secretary for Intergovernmental and External Affairs, provided the Department's perspective on the recent Tribal Summit and a possible framework for future interaction, as well as his perspective on the role of his office regarding tribal issues.
- Ed Regnier, Office of Environment, Safety and Health, discussed draft guidelines for the DOE Cultural Resources Plan (CRMP) via conference call.

- STGWG will submit comments on the CRMP draft guidelines shortly. The revised guidelines can be expected from DOE by Fall 2004.
- STGWG will submit a written plan for next DOE Tribal Summit.
- STGWG will work with DOE to complete the Implementation Plan for the DOE Indian Policy, and to move forward from the 2002 draft developed with EM, NNSA, and the DOE Office of General Counsel.
- The Consultation Plan and Memorandum of Agreement developed by the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), with DOE/Bonneville Power Administration, US Army Corps of Engineers and US Bureau of Reclamation will be shared with full STGWG and sent to DOE as an example of an effective consultation plan.
- STGWG and the Tribal Issues Committee look forward to attendance of the DOE Director of Indian Affairs at the next STGWG meeting.

LONG TERM STEWARDSHIP (LTS) AND LEGACY MANAGEMENT (LM)

- Dave Geiser, Director of Office of Policy and Site Transition, Office of Legacy Management, provided an overview of the LM standup, the LM site transition schedule, the process that will be used to transition sites, public involvement during site transition and post closure, and the post closure regulatory environment. In general, LM receives sites where there is no on-going DOE mission or activities other than LM.
- STGWG members indicated the need for the processes used to be more inclusive of state and tribal representatives. There was also a concern that there is not enough money to meet the LM obligations, whether they be routine or from unforeseen problems.
- DOE is looking for local staffing at LM sites, preferably non-DOE staff whenever possible, depending on the LTS requirements.
- A new draft of the LM Strategic Plan should be out in draft form mid-summer 2004. It will be revised again in 3 years. DOE should be able to effectively do consultation at the site level. The national level is more difficult due to broader stakeholder groups.
- Leah Dever, Associate Director of the Office of Laboratory Policy and Infrastructure, Office of Science, discussed how Science is beginning to plan for and undertake LTS obligations. There is a focus on community relations, regulator interaction on critical decision documents, and planning for the transition of EM staff to Science to assure expertise.
- A discussion of LTS/LM planning at Weldon Springs, Mo., Rocky Flats, Colo., and the Fernald and Mound sites in Ohio identified a number of critical issues including legal agreements, lead regulator selection, regulator funding and roles and responsibilities.