



Many Voices Working for the Community

Oak Ridge Site Specific Advisory Board

June 9, 2011

Inés R. Triay, Ph.D.
Assistant Secretary for Environmental Management
EM-1, Forrestal Building
U.S. Department of Energy
1000 Independence Ave. S.W.
Washington, DC 20585

Dear Dr. Triay:

Recommendation: Recommendation to Establish a Site Transition Process Upon Completion of Remediation at Ongoing Mission Sites

At our June 8, 2011, meeting the Oak Ridge Site Specific Advisory Board approved the enclosed recommendation regarding the site transition process of remediated areas from the responsibility of DOE Environmental Management to landlords at ongoing mission sites.

The recommendation asks that DOE EM develop a fact sheet, similar to one done by the Office of Legacy Management, that provides some guidelines on transitioning remediated areas at ongoing mission sites from EM to the site landlords.

We believe this is a good first step in developing a more formal policy of such transition activities.

Thank you for your attention in this matter. We respectfully request a response to this recommendation by September 8, 2011.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Murphree'.

Ron Murphree, Chair

Enclosures

cc/enc:

Dave Adler, DOE-ORO
Cate Brennan, DOE-HQ
Fred Butterfield, DOE-HQ
John Eschenberg, DOE-ORO
Pat Halsey, DOE-ORO
Myron Iwanski, Anderson County Mayor
Connie Jones, EPA Region 4

Local Oversight Committee
Melissa Nielson, DOE-HQ
Letitia O'Connor, DOE HQ
John Owsley, TDEC
Mark Watson, Oak Ridge City Manager
Ron Woody, Roane County Executive



Oak Ridge Site Specific Advisory Board Recommendation 198: Recommendation to Establish a Site Transition Process Upon Completion of Remediation at Ongoing Mission Sites

Background

Almost since its establishment the Oak Ridge Site Specific Advisory Board (ORSSAB) has been interested in stewardship of Department of Energy (DOE) lands after cleanup is completed, especially areas where contamination has been remediated in place. This interest is evident in the landmark documents “Final Report of the Oak Ridge Reservation End Use Working Group” and the two “Stakeholder Reports on Stewardship,” Volumes 1 and 2.

DOE has established stewardship policies for remediated sites that have been permanently closed. However, the department does not have similar policies in place for sites such as Oak Ridge where contamination remains at remediated sites and the Office of Environmental Management (EM) returns the land to its original landlords when its mission is complete.

In 1998 the Oak Ridge End Use Working Group recommended that the Secretary of Energy establish a national policy for long-term stewardship. In 2001, the Deputy Secretary of Energy directed landlord Program Secretarial Officers to assume responsibility for conducting long-term stewardship activities after EM completes cleanup at sites with a continuing non-EM mission. In 2007, ORSSAB asked DOE to reaffirm that policy of providing stewardship at sites with residual contamination and ongoing missions. In response to that recommendation EM assigned Dr. Vincent Adams as a headquarters liaison for long-term stewardship.

Before Dr. Adams could have any impact he was reassigned to other duties and the responsibilities of a liaison for long-term stewardship were not immediately assigned to anyone else.

In 2009, ORSSAB recommended that DOE support a nationwide stewardship workshop. Such a workshop was held by the Office of Legacy Management in November 2010 and a result of that workshop was the naming of Letitia O’Conor as the EM point of contact for long-term stewardship within the DOE Office of EM. Ms. O’Conor came to the January 2011 meeting of the ORSSAB Stewardship Committee and discussed her new role with the committee. At that time she left a number of documents for the committee members to review. They included:

- Use of Institutional Controls; DOE P 454.1, April 9, 2003
- Real Property Asset Management; DOE O 430.1B, September 24, 2003
- Implementation Guide for Use with DOE P 454.1 Use of Institutional Controls; DOE G 454. 1-1, October 14, 2005
- Site Transition Process Upon Cleanup Completion; DOE Fact Sheet, May 19, 2009
- Institutional Controls: A Citizen’s Guide to Understanding Institutional Controls at Superfund, Brownfields, Federal Facilities, Underground Storage Tanks, and Resource Conservation and Recovery Act Cleanups; Office of Solid Waste and Emergency Response 9355.0-99, Environmental Protection Agency (EPA), February 2005

- Institutional Controls Bibliography: Institutional Control, Remedy Selection, and Post-Construction Completion Guidance and Policy; Office of Solid Waste and Emergency Response, EPA 9355.0-110, December 2005

Except for the DOE Fact Sheet, the documents were prepared prior to 2006 and thus reflect the early work that was done to establish institutional controls (ICs) as part of overall cleanup at a site.

Discussion

The DOE documents describe the department's approach to ICs and the associated what, why, where, and who aspects of ICs. According to Ms. O'Connor these documents will form the basis of new and/or revised DOE IC directives. However, the early documents side-step elements of long-term stewardship that ORSSAB believes must be addressed in future documents. These elements include long-term funding and transfer of remediated sites with ongoing missions.

The most useful document is the DOE Fact Sheet prepared by the Office of Legacy Management (Attachment 1). A similar fact sheet could be prepared for transfer of sites with ongoing missions that includes discussion of needs and options for long-term funding.

The conditions for 10 Areas of the Site Transition Framework at the end of the fact sheet are particularly useful for guiding the development of DOE's policy, orders, and guidance for long-term stewardship of remediated sites.

Furthermore this list of 'conditions' includes the elements of long-term stewardship described in the ORSSAB Stakeholder Reports on Stewardship.

Recommendation

The Oak Ridge Site Specific Advisory Board recommends that the Office of Environmental Management working in conjunction with the ongoing mission sites develop a fact sheet similar to the Legacy Management Site Transition Process Upon Cleanup Completion Fact Sheet that would explain the process for transferring sites from EM's responsibility when remediation is completed to the ultimate landlords of the sites with continuing missions.

The board asks that the fact sheet include a Site Transition Framework that establishes the following conditions:

1. Authorities and accountabilities are assigned and documented.
2. Site conditions are accurately and comprehensively documented.
3. Engineered controls, operation and maintenance requirements, and emergency/contingency planning are documented.
4. Institutional controls and enforcement authorities are identified.
5. Regulatory requirements and authorities are identified.
6. Long-term surveillance and maintenance budget, funding, and personnel requirements are identified.
7. Information and records management requirements are satisfied.
8. Public education, outreach, information and notice requirements are documented.



Site Transition Process Upon Cleanup Completion

FACT SHEET

This fact sheet explains the process for transferring a site to the U.S. Department of Energy Office of Legacy Management.

Introduction

After environmental remediation is completed at a site and there is no continuing mission, responsibility for the site and the associated records are transferred to the U.S. Department of Energy (DOE) Office of Legacy Management for post-closure management. Where residual hazards (e.g., disposal cells, ground water contamination) remain, active long-term surveillance and maintenance will be required to ensure protection of human health and the environment.

Transition Process

The DOE Office of Legacy Management (LM) established transition guidance for remediated sites that will transfer to LM for long-term surveillance and maintenance.

The primary DOE Orders related to the transition process are:

- DOE Order 430.1B *Real Property Asset Management*. This order specifies the requirements of real property and asset management including the disposition and transition of the real property and assets.
- DOE Order 413.3A *Program and Project Management for Acquisition of Capital Assets*. This order specifies a disciplined process for project management using the Critical Decision process.

The transition process is the passage from the phase during which engineered, near-term actions are taken to mitigate environmental and human health risks to the next phase where residual risks are maintained in a sustainable safe condition to allow beneficial use.

Seven fundamental steps are implemented during the transition process to ensure a successful transfer to LM. These steps are identified as (1) notification, (2) site transition plan, (3) determination of long-term surveillance and maintenance requirements, (4) communication and outreach, (5) budget and authority documentation, (6) verification of readiness, and (7) transfer.

Notification

Notification is an ongoing dialogue between the responsible agency, usually the DOE Office of Environmental Management (EM), and LM. EM and LM communicate quarterly about projected dates that environmental remediation is estimated to be complete at a site. The notification allows enough time for both

organizations to work jointly on the transition and for LM to engage in remediation considerations that may impact long-term surveillance and maintenance costs and effectiveness. For a small site, notification of 4 to 6 months prior to completion may be adequate. For a larger site (e.g., Fernald, Mound, Rocky Flats), notification of 2 years or longer is necessary to ensure a smooth transition.

Site Transition Plan

The transition plan identifies and guides the execution of the actions needed to move the site to a point where responsibility can be transitioned from EM to LM. The transition plan is jointly developed, approved by EM-1 and LM-1, and jointly executed by EM and LM staff. The transition plan should meet the requirements of DOE Order 430.1B *Real Property Asset Management* and include the disposition of federal work force responsibilities. The transition plan structure is based on transition guidance established by DOE-LM. The Site Transition Framework (STF) defines site conditions, documentation, and the long-term surveillance and maintenance aspects that must be addressed. However, it does not prescribe a transition process.

Long-Term Surveillance and Maintenance (LTS&M) Requirements

Post-closure activities should be identified and clearly documented in a LTS&M Plan. The LTS&M Plan should include those actions that are required to maintain the protection of the remedy (e.g., remedy performance monitoring, ground water pump and treat); manage the natural, cultural, and historical resources; and involve and inform the public. For Comprehensive Environmental Response, Compensation, and Liability Act sites, the LTS&M Plan will meet the requirements of the Operations and Maintenance Plan and include the enforceable activities to be administered under a post-closure agreement. LM will require support from EM but will lead the development of the LTS&M Plan.

Communication and Outreach

Communication with the site's stakeholders and regulatory agencies builds on existing communication and outreach efforts. One goal of the transition process is to ensure stakeholders and regulators are aware of the plan to transition, and participate in the development of the LTS&M Plan.

Budget and Authority Documentation

EM and LM will work together to ensure appropriate cost estimates are developed for the post-closure management of the site. This will require cost estimates for LTS&M, contractor pensions and benefits, and other costs that are needed for post-closure management. It is important that both organizations understand the post-closure cost estimates as those estimates define the planned target transfer from EM to LM.

Prior to the expected transfer of the site, DOE will prepare a Program Budget Decision (PBD) document. The PBD is signed coincident with the preparation of the President's Request for the fiscal year LM is expected to receive the site. The document is the official notification that the Department intends to transfer budget and scope from EM to LM.

Verification of Readiness

The Critical Decision 4 (CD-4) package is a formal determination that addresses commitments to be met before a project is allowed to be designated as completed in accordance with DOE O. 413.1A. The CD-4 package documents the completion of the EM mission at the site and validates the successful execution of the transition plan. Thus, the CD-4 package includes a final assessment of the site readiness to transfer. The CD-4 package represents agreement between EM and LM on the conditions of the site and associated activities at the time of transfer. The CD-4 package is signed by the Under Secretary for Energy, Science and Environment.

Transfer

Once the budget request has been approved by Congress and the CD-4 package is signed, the site is officially transferred from EM to LM. It should be noted that even though the site has been transferred, there may be some remaining activities that remain for EM to complete. These activities will be documented in the approved CD-4 package.

Site Transition Framework Establishes Conditions for 10 Areas

1. Authorities and accountabilities are assigned and documented.
2. Site conditions are accurately and comprehensively documented.
3. Engineered controls, operation and maintenance requirements, and emergency/contingency planning are documented.
4. Institutional controls and enforcement authorities are identified.
5. Regulatory requirements and authorities are identified.
6. Long-term surveillance and maintenance budget, funding, and personnel requirements are identified.
7. Information and records management requirements are satisfied.
8. Public education, outreach, information and notice requirements are documented.
9. Natural, cultural, and historical resource management requirements are satisfied.
10. Business functions including contractor benefits are addressed.