



Many Voices Working for the Community

Oak Ridge Site Specific Advisory Board

June 13, 2013

Letitia O'Connor
EM-11
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

Sue Smiley
Program Analyst
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Dear Ms. O'Connor and Smiley

Recommendation 218: Recommendation to Develop a Fact Sheet on Site Transition at On-going Mission Sites

At our June 12, 2013, 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 basically re-states an earlier recommendation from the board (Recommendation 198: Recommendation to Establish a Site Transition Process Upon Completion of Remediation at Ongoing Mission Sites, June 2011) 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.

DOE EM developed a Site Transition Summary: Cleanup Completion to Long-Term Stewardship at Department of Energy On-going Mission Sites, which is a useful document and we appreciate the effort that has gone into producing it. However, we still believe a fact sheet similar to the Legacy Management fact sheet is more user friendly for the general public.

Thank you for your attention in this matter. We respectfully request a response to this recommendation by September 12, 2013.

Sincerely,

David Martin, Chair

Enclosures

cc/enc:

Dave Adler, DOE-ORO
Cate Alexander, DOE-HQ
Fred Butterfield, DOE-HQ
Susan Cange, DOE-ORO
Melyssa Noe, DOE-ORO
Terry Frank, Anderson County Mayor

Connie Jones, EPA Region 4
Melissa Nielson, DOE-HQ
John Owsley, TDEC
Mark Watson, Oak Ridge City Manager
Ron Woody, Roane County Executive



Oak Ridge Site Specific Advisory Board Recommendation 218: Recommendation to Develop a Fact Sheet on Site Transition at On-going Mission Sites

Background

In June 2011, the Oak Ridge Site Specific Advisory Board (ORSSAB) recommended to the Department of Energy (DOE) Assistant Secretary for Environmental Management (Attachment 1) that it develop a fact sheet similar to one used by the Office of Legacy Management (LM) that describes a site transition process upon completion of cleanup at remediated DOE sites (Attachment 2).

The recommendation included a number of points suggested to be part of the fact sheet that would be applicable for a site transition process at on-going mission sites, such as Oak Ridge.

DOE accepted the recommendation (Attachment 3) and developed a document called "Site Transition: Cleanup Completion to Long-term Stewardship at DOE On-going Mission Sites (September 2011).

ORSSAB's Stewardship Committee provided comments on the document both by mail and via teleconference. In February 2012, DOE issued another document that reflected input provided by ORSSAB and other site specific advisory boards (Attachment 4).

Discussion

ORSSAB sincerely appreciates the work that has been done on the site transition document. It is useful and provides much good information related to turning remediated areas back to original landlords when DOE's Environmental Management Program is completed at an on-going mission site.

Even though we have provided comments on the document, we still believe that the format used in the LM fact sheet is more user-friendly and better suited for public use.

Recommendation

ORSSAB re-states its recommendation of June 2011 that DOE develop a site transition document in a similar format as the LM fact sheet (Attachment 2).

We are not suggesting that the February 2012 site transition summary be scrapped. Indeed it has a place in the process, but ORSSAB feels the LM formatted fact sheet is much easier for the general public to understand and provides the best first step for the public to learn more about the site transition process at on-going mission sites.



**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.



Department of Energy
Washington, DC 20585

Attachment 3

July 13, 2011

Mr. Ron Murphree, Chair
Oak Ridge Site Specific Advisory Board
P.O. Box 2001, EM-91
Oak Ridge, Tennessee 37831

Dear Mr. Murphree:

Thank you for the June 9, 2011, letter transmitting the Oak Ridge Site Specific Advisory Board (ORSSAB) Recommendation #198. That recommendation concerns the site transition process following completion of cleanup activities by the Department of Energy's (DOE) Office of Environmental Management (EM). Specifically, the ORSSAB asks EM to develop a fact sheet explaining the post-cleanup process by which land and management responsibilities are transferred to other program offices within DOE. We fully accept this recommendation and have initiated efforts to draft a fact sheet that provides, as you suggested, content similar to the Legacy Management Site Transition Process upon Cleanup Completion Fact Sheet. We know that there are many questions about transfers to landlords other than Legacy Management, and we commend you on pursuing answers to those questions as a local board of the EM Site Specific Advisory Board (EM SSAB).

Once the fact sheet is drafted it will be circulated for input by stakeholder groups, including your own. We anticipate this draft will be ready for review in fall, 2011.

Thank you for your ongoing engagement with the EM SSAB. Your efforts and those of your board members are highly valued and greatly appreciated. If you have any questions about this matter, please contact Ms. Melissa A. Nielson, Director, Office of Public and Intergovernmental Accountability, at (202) 586-0356, or Ms. Cate Alexander Brennan, EM SSAB Designated Federal Officer, at (202) 586-7711.

Sincerely,

Frank Marcinowski
Deputy Assistant Secretary for
Technical and Regulatory Support

cc: J. Eschenberg, OR
D. Adler, OR
P. Halsey, OR
B. Levitan, EM-41
T. O'Connor, EM-41
M. Nielson, EM-42
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**UNITED STATES DEPARTMENT OF
ENERGY**

**Site Transition Summary: Cleanup Completion to
Long-Term Stewardship at Department of Energy On-
going Mission Sites**

February 2012

Introduction

Long-term stewardship (LTS) includes the physical controls, institutions, information, and other mechanisms needed to ensure protection of people and the environment at sites where the U.S. Department of Energy (DOE) has completed or plans to complete cleanup (e.g., landfill closures, remedial actions, removal actions, and facility stabilization). This concept includes land-use controls, information management, monitoring and maintenance.

DOE has ongoing mission areas related to advancing energy and nuclear security, promoting scientific discovery and innovation, and ensuring environmental responsibility and management. Programs in these mission areas are sponsored by several Program Secretarial Offices (PSOs), and most DOE sites have multiple programs operating in parallel at a site. DOE assigns a lead PSO responsibility for proper stewardship of real property assets at its sites, including maintaining the condition of infrastructure to support primary mission and "tenant" activities. Typical landlord activities include maintaining safeguards and security access, utilities, safety and health, general environmental monitoring, and facilities management and maintenance. DOE landlord programs include the National Nuclear Security Administration (NNSA), Office of Science (SC), Office of Nuclear Energy (NE), Office of Environmental Management (EM), and others. After EM completes environmental cleanup of a site where there is a continuing DOE mission, EM transfers responsibility for any associated LTS requirements, such as maintaining caps on disposal cells, monitoring contaminant levels in environmental media, operation of ground water pump and treat system(s), etc., to the appropriate DOE receiving site landlord program(s). The receiving DOE landlord program budgets for and conducts LTS requirements in parallel with similar mission-related environmental activities such as radiological and non-radiological dose assessment; air surveillance; groundwater, surface water, and sediment monitoring and analysis; soil monitoring; and foodstuffs and biota monitoring. The landlord program usually reports the results of such monitoring in its Annual Site Environmental Reports. LTS requirements remain with the responsible site landlord until such time as there is a determination to start final closure of a site, i.e., all active DOE missions cease. For DOE sites that have no ongoing mission, any LTS scope, including management of all

government-owned records, is transferred to the DOE Office of Legacy Management (LM) for continued post-closure LTS and associated long-term surveillance and maintenance (LTSM).

On a site-specific basis, where residual hazards (e.g., capped disposal cells, ground water contamination) remain after cleanup activities, management of any associated LTS is conducted in accordance with DOE Orders and guidance; Federal, State and local environmental and resource protection (e.g., natural and cultural resources) laws; and site-specific agreements between DOE and State and Federal environmental regulators. DOE Policy 454.1 *Use of Institutional Controls* requires DOE to maintain responsibility for protection of the public and the environment as long as the hazards are present. <https://www.directives.doe.gov/directives/0454.1-APolicy/view>

The site transition process at ongoing mission sites is consistent with Terms and Conditions (T&C) agreements executed by EM and NNSA, and by EM and SC. Both T&C agreements were modeled after an earlier T&C agreement between EM and LM for the non-mission closure sites. All three T&C agreements include a framework for conducting site transition planning activities across the following ten functional areas:

1. *Authorities and Accountabilities*
2. *Site Conditions*
3. *Engineering Controls, Emergency/Contingency Planning*
4. *Institutional Controls, Property management*
5. *Regulatory Requirements*
6. *Budget, Funding, and Personnel*
7. *Information and Records management*
8. *Public Outreach and Information*
9. *Natural, Cultural, and Historic Resources*
10. *Business and Contract Closeout*

All three T&C agreements are available:

EM and NNSA T&C, dated 09/05/2006

www.em.doe.gov/pdfs/lts/EM-NNSA-Terms-and-Conditions-for-Site-Transition.pdf

EM and SC T&C, dated 02/09/2006

www.em.doe.gov/pdfs/lts/EM-SC-TermsConditions-for-Site-Transition.pdf

EM and LM T&C, dated 02/15/2005

www.lm.doe.gov/LTSM/Site_Transition_Documents.aspx

For sites where no agreement exists with EM (e.g., Nuclear Energy landlord program sites), EM and the landlord program will take a tailored approach to site (or a portion of a site) transition planning, building upon the most applicable T&C requirements from any/all of the three T&C agreements published to date.

Transition Process Summary

Primary DOE Orders and guidance for the site transition process include:

DOE Order 430.1B Real Property Asset Management. This order specifies the requirements for management of real property assets, including their disposition and transition. www.directives.doe.gov/directives/current-directives/430.1-BOrder-bc2/view?searchterm=430.1b

DOE Order 413.3B. Program and Project Management for the Acquisition of Capital Assets. This order specifies a disciplined process for project management using the DOE-internal Critical Decision (CD) process throughout all stages of the project lifecycle. In particular, CD 4 (Approve Project Completion) occurs upon EM's completion of physical work and the successful transfer of LTS activities to the DOE landlord program. www.directives.doe.gov/directives/archive-directives/413.3-BOrder-ac1/view

The transition process from EM cleanup to another DOE program office for LTS is the passage from the phase during which engineered and administrative near-term actions are taken to mitigate environmental and human health risks, to the next phase, in which residual risks are managed along with long-term response actions (LTRA) in a sustainable, safe condition. This latter phase may include new use of lands or buildings. The following two Assistant Secretary for Environmental Management (EM-1) memoranda provide additional information on this subject:

Definition of Environmental Management Completion, dated 02/12/2003
www.em.doe.gov/pdfs/lts/Definition-of-EM-Completion-EM1-memo-dtd-2-12-03.pdf

Transition of Long-Term Response Action Management Requirements, dated 06/10/2003
www.em.doe.gov/pdfs/lts/TransitionofLTRAMManagementReqs2003.pdf

One of the first steps in the transition process is the formation of an EM/DOE landlord site transition team, usually initiated three years before the planned transfer date. The team is responsible for defining actions required to accomplish a smooth transition of responsibilities from EM cleanup to site landlord program LTS.

Site Transition Plan

The site transition team develops a Site Transition Plan (STP), or a Project Closeout and Transition Plan (PCTP), in accordance with the applicable T&C agreement. The STP/PCTP includes ten functional areas that apply to all DOE site transitions, including ongoing mission sites and non-mission closure sites. The analysis of each functional area includes a description of site conditions, documentation and LTSM requirements, as well as roles and responsibilities for EM and the landlord program office. EM, LM and SC follow the *Site Transition Framework (STF) for Long-Term Surveillance and Maintenance*, which establishes requirements for the format and content of the STP. EM and NNSA follow the *Project Closeout and Transition Plan Guidance for*

Environmental Projects at NNSA Sites, which defines similar requirements for the format and content of the PCTP. The above guidance is included in the aforementioned EM/LM and EM/NNSA T&C agreements. EM leads the development of the initial draft STP or PCTP. Development of the STP/PCTP facilitates discussions between EM and the landlord program office on LTS budget requirements for post-closure care as well as roles and responsibilities for EM and the landlord program office leading up to the date of site transition.

Budget Documentation

To pay for the LTS activities, EM and the landlord program develop cost estimates for the first five years of LTRA activities after the transfer, and request that the budget authority for these funds be transferred from EM to the landlord program. In order to accommodate the standard federal budget cycle, a *Program Decision Memorandum* is signed by the Deputy Secretary of Energy two years before the planned transfer date. Also, funding liabilities associated with LTS for the next 75 years are updated and reported annually in the DOE's formal financial accountability statements.

Transfer

Once the Deputy Secretary of Energy signs the *Program Decision Memorandum*, the budget request is submitted to Congress for approval, and once the necessary funds are received, the responsibility for LTS activities transfers to the landlord program office. In some cases, EM maintains responsibility for certain activities at a site (such as obtaining regulator-approval of a final cleanup record of decision, even though the landlord program office has received funding and has begun performing LTS activities.

Additional Guidance

Visit DOE's LTS Information Resource Center at:
<http://www.em.doe.gov/lstewardship/lstewardship.aspx>