

**TEC Tribal Issues Topic Group Meeting  
February 6, 2001  
Portland, Oregon**

**Participants: Richard Arnold (Las Vegas Indian Center), Helen Belencan (DOE/EM-22), Kevin Blackwell (DOT/FRA), Wynona Boyer (Shoshone-Bannock Tribes), Mike Calhoun (DOT/FRA), Michael Chavarria/Joseph Mark Chavarria (Santa Clara Pueblo), Kevin Clarke (DOE/RL), Sandra Covi (UPR), Martha Crosland (DOE/EM-11), Jim Daust (CVSA), Ed Gonzales (ELG Engineering), Ken Gray (CTUIR), Veronica Herkshan (Shoshone-Bannock Tribes), Robert Holden (NCAI), Judith Holm (DOE/NTPA), Henry Jacobs (DOT/FRA), Daniel King (Oneida Nation), Edward Liebow (EH&SP), Linda Minton (ENA), Stanley Paytiammo (Pueblo of Acoma EPA), Wilda Portner (SAIC), Max Powell (DOE/YMSCO), Mike Rowswell (Assoc. of State Rail Safety Managers), Greg Sahd (DOE/CAO/WIPP), Patrick Sobotta (Nez Perce Tribe), Neil Weber (Pueblo of San Ildefonso), Heather Westra (Prairie Island Indian Community), Edward Wilds (CSG-ERC)**

Issues discussed during this meeting included a review of action items from the December conference call, an update on the proposed DOE Consolidated Transportation Grant program, Federal GIS resources/information sharing, Implementation of the American Indian/Native Alaskan Policy and DOE's Employee Guide for Working with Tribal Nations.

**Action Items:**

Responsible Party

Action to be Taken

R. Holden/W. Portner

Distribute summary of IIIRM\* meeting and participants list.

J. Holm

Communicate Tribal consultation concerns to DOE Center for Risk Excellence (CRE).

Responsible Party

Action to be Taken

All

Comments on Lessons Learned Report draft to H. Westra or W. Portner by 4/15/01

All

Comments on Grant draft Framework document to J. Bradbury.

## Summary:

In earlier Tribal Issues Topic Group meetings/conference calls, participants had discussed available global information system (GIS) resources that reflect Tribal boundaries. The group decided to look into exactly what Federal GIS resources are available. Ed Liebow, Environmental Health & Social Policy Center (Pacific Northwest National Laboratory), made a presentation at the February 6 Topic Group meeting in Portland, Oregon, entitled *GIS and Remote Sensing*. Key points of the presentation included:

- Federal Data Sharing Network includes U.S. Environmental Protection Agency (EPA), U.S. Nuclear Regulatory Commission, U.S. Geological Survey, U.S. Department of Defense (DoD), Bureau of Census, and U.S. Department of Interior.
- November 2000 Workshop
  - Organized by the International Institute for Indigenous Resource Management\* with sponsorship of DOE's CRE, EPA, and DoD
  - Subject: Application of Remote Sensing and GIS to Federal Facilities Environmental Restoration
- Potential applications for DOE National Transportation Program (NTP):
  - Characterizing baseline conditions and route planning activities
  - Consolidated Grant Program allocations
  - Impact assessment and monitoring

Several participants expressed concern that they had not heard about the November workshop and the possibility that IIRM was advising DOE without full Tribal representation. Other issues raised included the possibility that such conferences could tend to take the place of proper Tribal consultation and the possible disclosure of sensitive information such as locations of cultural resources. Dr. Liebow explained that the purpose of the workshop was to discuss new technology and how it could be used to improve the infrastructure. DOE staff assured the group that the CRE is aware of how consultation with Tribes should work and how to appropriately share and safeguard information. The IIRM meeting agenda and summary are available at:

<http://www.iirm.org/conferences/conf-workshops.htm/>

Next on the agenda was discussion on the Implementation Plan for the DOE American Indian and Native Alaskan Policy. The Secretary of Energy issued the revised policy in the fall of 2000, after receiving broad input from Tribes. The new Policy can be found on the Web at <http://www.ci.doe.gov/indianbk.pdf>. It was noted that the Implementation Plan for the Policy needs to be developed with the Tribes, but no firm schedule has been established at this point. Robert Holden (NCAI) said his organization would be working toward a meeting between Tribal leaders and DOE Tribal program folks on implementation of the Plan to let the Secretary of Energy know of Tribal issues. The Tribes want a contact within the Secretary's inner circle at all Cabinet levels in the Bush Administration as well. Kevin Clarke (DOE/RL) applauded Robert Holden's efforts in development of the new Policy and stated that it is already having a positive impact at Richland.

Robert Holden distributed copies of two articles:

- “Challenges for Tribal Emergency Management Programs” from the November 2000 *IAEM Bulletin*
- “When Nuclear Waste Is Last Resort” from the January 17, 2001 edition of *Indian Country Today*

Copies are available from Wilda Portner (SAIC) at 505-842-7818 if you missed the meeting.

Martha Crosland announced the new publication, *Working with Indian Tribal Nations: A Guide for DOE Employees* (December 2000) is now available on the Web at: <http://www.em.doe.gov/public/tribal/history.html>.

The DOE Consolidated Grant Process was then discussed. DOE has made no final decisions. Helen Belencan (DOE/EM) has become a key player at DOE Headquarters to assist with the policy coordination for the proposed grant, which has been worked through DOE senior management. The group walked through the basic Framework document for the Grant and those present expressed issues and concerns regarding Tribal relationships with

DOE and the proposed grant: Comments should be sent to Judith Bradbury, PNNL. Her email address is [judith.bradburyt@pnl.gov](mailto:judith.bradburyt@pnl.gov) and her fax number is 301-862-1595. Some of the issues brought up in Portland included:

- A request was made to eliminate “with limited resources” from the first paragraph.
- Tribal preferences are not reflected in the body of the document.

Helen requested that the group review Issue No. 4 in the Framework document and let DOE know if the issues were oversimplified.

- Some of the wording in the document is inappropriate (for example: “special needs”). Those special needs are really “legal responsibilities” of the Federal Government.
- On page 16 of the Framework document, it was pointed out that in regard to the FEMA reference Native Americans are not mentioned in the disaster relief regulations. Disasters do not know the difference between Tribes and others. Tribes are told to go to the Bureau of Indian Affairs for relief. Some Tribes outside New Mexico, however, do have good working relationships with their States for disaster relief. This Framework document should spell out how the Tribes in New Mexico will be treated.

Helen then asked how DOE can go forward with recommendation for a formal Grant policy. Responses included:

- The Shoshone-Bannock Tribes have a Cooperative Agreement with DOE and are leery of the Consolidated Grant issue. There is no guarantee that they will still have their contacts if a Grant is put in place. The Shoshone-Bannock Tribes do not like the fact that they are being placed into another grouping. DOE has the responsibility for the government-to-government relationship. Each Tribe is a separate sovereign entity with

its own issues that cannot be addressed in a document such as the Framework document.

Helen responded that homogeneous treatment of Tribal nations is not the intent of DOE in this proposed grant process. Tribes would be working with one DOE contact/source for transportation-related funding.

- Wynona Boyer (Shoshone-Bannock) countered that DOE Idaho has tried one point-of-contact for transportation and it didn't work. The Shoshone-Bannock primary point-of-contact has been through the Waste Isolation Pilot Plant and the Tribe does not want to lose that continuity or "mess up" that working relationship.

Helen said DOE doesn't want to break up that working relationship either, but wants to enable States and Tribes to safely prepare for transportation activities by getting DOE's house in order (cleaning up paperwork, etc.). Other issues were raised as follows:

- Neil Weber said San Ildefonso has found consolidated funding to be a nightmare in the past and asked if the States have been given the Framework document for review.

Helen replied that it has only gone to TEC members so far. The next iteration will go to a broader group of stakeholders.

- Neil stated that the document should be sent to every Tribe in the country for review.
- Heather Westra of the Prairie Island Indian Community questioned eligibility for grant funding and asked how the "10 shipment" language would correspond with Section 180(c).

Helen said it does not meet the 180(c) mandate.

- Heather then told the group that this issue needs to be clarified in the Framework document.
- Tribes want to be part of the development process for the grant, not just review and comment at the end.
- Robert Holden questioned Option 2 – How, even at this preliminary stage, can DOE say 10 shipments is the preferred option?

Helen answered that DOE doesn't expect OCRWM to ship in the next 3 to 5 years and DOE needs to explain its preferred option more thoroughly.

- Ed Gonzales (ELG) suggested a table or matrix is needed to show the number of anticipated shipments and their impact on Tribes.
- It was pointed out that Tribes have smaller populations and an incident would have a greater probability of wiping out a Tribal bloodline.
- Shipments could impact Tribal ties to the land. Tribal peoples are not leaving their homelands and long-term impacts should be addressed in the three quantifying factors

in the Framework document.

- The Framework document needs to address the trust responsibility and fiduciary duties of the Federal Government.

Helen agreed that the document needs to address why there is a trust responsibility and acknowledge why the government-to-government responsibility is necessary. These reasons need to be stated in the Framework document.

- Disparity between State and Tribal funding also needs to be addressed. There is a lack of access to State and Federal funding.
- Participants said Tribes need to sit down and discuss if they want to be part of the Grant.... Is 10 percent acceptable? EPA set-asides have become very confrontational.
- The Shoshone-Bannock Tribes are affected by transportation on a daily basis and prefer a separate grant for States and Tribes. States would include Tribal population and miles in their own submissions for grant money and the Shoshone-Bannock Tribes would be competing with the States for funding.
- Ken Gray said the Umatilla have already gone through the negotiating process for their funding and being asked to justify it all over again would be very frustrating.
- Mike Rowswell, Federal Rail Administration (DOT), asked what level of funding would be available for the Grant.

Helen responded that there are no fixed numbers yet. The budget process would have to be worked through. DOE may need to establish the needs first and then apply for the funding to meet those needs Ed Gonzales again suggested, an exercise be conducted on how the Grant funding would impact Tribes. Agreement was expressed by some. Judith Holm noted that DOT has a set aside for tribes out of a total for their program (See Appendix A in the Framework). The amounts provided by DOT for tribes have been very small. DOE will provide representative amounts based on a series of hypothetical formulas for discussion at the workshop for tribal governments, which will be held in the spring. DOE will work with NCAI, the Tribal Topic Group and other support groups to prepare for the workshop. The goal is to have a full discussion of the issues and obtain input for the Framework document and potential funding program.

The Grant discussion concluded the session. The next conference call date and time was not decided on at the meeting.

Corrections or additions to this summary should be forwarded to Wilda Portner, SAIC, at [wilda.e.portner@saic.com](mailto:wilda.e.portner@saic.com) or faxed to her at 505-842-7798 (voice number is 505-842-7818).