

TRIBAL ISSUES TOPIC GROUP CONFERENCE CALL SUMMARY (April 26, 2000)

Participants: Jessica Alcorn (DOE/EM), Kevin Blackwell (DOT), Judith Bradbury (PNL), Stephanie Bush-Goddard (NRC), Kevin Clarke (DOE/RL), Martha Crosland (DOE/EM), Tony Dipalo (NRC), Spiros Droggitis (NRC), Dorothy Gauch (NRC), Ken Gray (CTUIR), Robert Holden (NCAI), Judith Holm (DOE/NTPA), Preston Kinne (Kootenai/NTEC), Carol Peabody (DOE/EM), Wilda Portner (SAIC), Greg Sahd (DOE/WIPP), Heather Westra (Prairie Island Indian Community), J. R. Wilkinson (CTUIR), Jon Wright (DOE/EM)

Issues discussed during this call included: Action Items from the February meeting in Las Vegas, NV; status of latest draft of DOE Indian Policy; DOT/FRA Rail Inspection Letter update; NRC ANPR on Tribal Prenotification; recent State and Tribal Government Group (STGWG) meeting; and plans for July TEC/WG meeting in Indianapolis.

Action Items:

Responsible Party	Action to be Taken
All	Provide NRC with comments on ANPR on Advanced Notification by July 5, 2000.
All	Forward possible agenda items to Judith or Wilda for July TEC/WG Tribal Issues Group meeting.
Judith Holm	Provide Group with copies of latest report on funding assistance to States and Tribes.
Judith Holm	Provide Group with questions from Tribes from review of EIS comments.
Martha Crosland	Compile draft set of Frequently Asked Questions about DOE transportation activities related to Tribes for website (prior to July meeting). Circulate to group for comments prior to posting. (Martha and Judith will coordinate the questions and answers)
Tribal Representatives	Forward questions to Martha Crosland and Wilda to compile for FAQ web site.
Judith Holm/Wilda Portner	Draft agenda for July and circulate for comment. Judith will discuss clean up level panel possibility with TEC/WG Planning Group.
Heather Westra/J.R. Wilkinson	Develop Tribal case studies for transportation activities related to ceded lands and coordinated planning efforts between tribes and other jurisdictions.
Kevin Clarke	Develop a short definition (dictionary-type version) of "ceded lands" and description of what Tribes would expect relative to the DOE consultation process.
J.R. Wilkinson	Email copy of STGWG meeting summary to: Wilda.e.portner@cpmx.saic.com . Wilda will distribute to the Group.
Kevin Blackwell	Continue to track Inspection Authority letter.

Summary:

DOE's National Transportation Program has drafted a response to the February 15 memorandum from the Santa Clara Pueblo regarding transportation concerns. It is being circulated within the Department for comments and informal discussions will take place between DOE and the Pueblo. With Santa Clara approval, the formal written response will be shared with the Tribal Issues Topic Group and STGWG. Kevin Blackwell made the TEC/WG Protocols Topic Group aware of Santa Clara questions regarding emergency response. Those questions which can be addressed in the protocols (consultation, clean-up from transportation accidents) have been forwarded to the DOE protocol writing group. Some of these questions are very specific to Santa Clara. Those comments will be addressed in other discussions with the Pueblo. Another issue raised in the February 15 memorandum was on the level of cleanup and who determines how clean is clean enough. It was mentioned that an international group is working to develop an agreement that will give Tribes along the U.S.-Canadian border authority for clean up level determination. EPA's Final Rule on Eligibility for Program Authorization was identified as a resource on Tribal authority. It was pointed out that the rule is specific to programs identified by Congress. A recommendation was made that Judith talk to EPA Region 10 staff in Seattle. The Group agreed that clean up is a partnership and must be approached on a case-by-case basis. The subject of clean up levels/lessons learned by State/Tribal/Federal agencies might be a good panel discussion for the July meeting. Judith Holm will discuss with TEC/WG Planning Group.

The Group agreed a set of Tribal-related Frequently Asked Questions should be developed for loading on the Web. Questions the Tribes would like to see posted should be forward to Judith Holm in Albuquerque (email: jholm@doeal.gov; phone: 505-845-4767). Possible other sources included Consolidated Grant issues, the February 15 Santa Clara memorandum to DOE, and comments received on Environmental

Impact Statements.

The Group agreed to pursue a dictionary style version of a definition for "ceded lands" so everyone in the group could understand what ceded lands are. Kevin Clarke said he would look into it and would also put together a summary of what the Tribes would like to see DOE do in the way of consultation processes. Brandt Petrusek (DOE/HQ) was recommended as a resource for this action. Case studies capturing information about coordinated consultation and planning between states, tribes and federal agencies would be helpful to learn what can work to enhance everyone's preparedness. J. R. Wilkinson and Heather Westra offered to develop case studies for the group.

The NRC has reopened comments on the Tribal Notification ANPR. The deadline has been extended until July 5, 2000. Comments received to date, as well as the ANPR and extension notice, are available on the Web at [Http://ruleforum.llnl.gov](http://ruleforum.llnl.gov). NRC staff reported that approximately 43 comments have been received: 1 from the State of IL, 5 from private citizens, 1 from the Nuclear Energy Institute, and the remaining from Tribes. All support a Rulemaking and the DOE notification process has been pointed out as a possible model.

DOT Order 5301.1, the 1997 U.S. Hazardous Materials Commodity Flow Survey, and Guidance for Conducting Hazmat Flow Surveys are all available from Wilda Portner (wilda.e.portner@cpmx.saic.com; phone 505-842-7818).

The latest draft of the DOE Indian Policy has not been released. Language issues related to Alaska Natives need to be clarified.

The DOT rail inspection letter has gone forward to the Federal Rail Administrator for signature. FRA will not be sending it back to the Secretary for Transportation for another round of reviews. Kevin Blackwell is confident that we will have the letter for this July's meeting.

Transportation-related discussions at the recent STGWWG meeting included a presentation on Transportation Protocols and the Consolidated Grant Program. The goal announced at STGWWG was for all Protocols to be in the review process by the end of this month. So far, review of Protocols has been positive. Judith noted that the Public Communications Planning Protocol should be ready in draft for the July TEC/WG meeting, and by that time all Protocols should be in front of the TEC/WG membership for review. STGWWG supports the ANPR on Tribal Notification and consolidated funding. They also want to see barge transportation included in the Transportation Protocols and emphasized at the meeting that Transportation grants must be made to individual Tribes, not groups of Tribes. Judith assured the Group that this was the plan. The Consolidated Grant package is going to the Secretary for approval.

The July TEC/WG meeting has been scheduled for July 25-27 in Indianapolis. The Group agreed our meeting should be held for half a day on the first day of the TEC/WG. Judith will work up a draft agenda and distribute it to the Group for comments within 3 weeks. Please provide any recommendations to Judith or Wilda Portner.

In other news, Robert Holden announced the June 6 Nuclear Waste Policy meeting. Kevin Blackwell informed callers that DOE is working on a Rail Carrier Evaluation Program, similar to their Motor Carrier Evaluation Program.

The next conference call is scheduled for June 22, Noon eastern time: 10 am mountain; 9 am Pacific. A call-in number will be provided with the final agenda.