

Summary
TEC Tribal Topic Group Meeting
Tuesday, March 14, 2006
Washington, DC

Participants: Jay Jones, Department of Energy (DOE)/Office of Civilian Radioactive Waste Management (OCRWM), chaired the session. Other Topic Group members included Richard Arnold (Pahrump Paiute Tribe/Consolidated Group of Tribes and Organizations), James Baranski (NY State Emergency Management Office), Vicki Best (Bechtel SAIC Company [BSC]), Rob Burnside (Umatilla Confederated Tribes), David Conrad (National Tribal Environmental Council), Earl Easton (Nuclear Regulatory Commission), Kristen Ellis (DOE/Office of Congressional and Intergovernmental Affairs), Atef Elzeftawy (Las Vegas Paiute Tribe), Greg Fasano (BSC), Robert Gisch (Naval Sea Systems Command), Ed Gonzales (ELG Engineering), Elizabeth Helvey (JK Research Associates, Inc./BSC), Marsha Keister (Idaho National Laboratory), Joe Kennedy (Timbisha Shoshone Tribe), Daniel King (Oneida Nation of Wisconsin), Angela Kordyak (DOE/Office of General Counsel), Corinne Macaluso (DOE/OCRWM), Calvin Meyers (Moapa Band of Paiutes), Linda Minton (Emergency Nurses Association), J. Michele Moses (Umatilla Confederated Tribes), Doug Osborn (Sandia National Laboratories), Ellen Ott (DOE/Office of General Counsel), Jennifer Patric (Booz Allen Hamilton), Stanley Paytiamo (Pueblo of Acoma), Brandt Petrusek (DOE/Office of Environmental Management), Wilda Portner (SAIC), Willie Preacher (Shoshone-Bannock Tribes), Shannon Rindfleisch (Prairie Island Indian Community), Linda Sikkema (National Conference of State Legislatures), Larry Stern (Commercial Vehicle Safety Alliance), Kevin Tafoya (Santa Clara Pueblo), Randall Vicente (Pueblo of Acoma), Christopher Wells (Southern States Energy Board), Tad Williams (Walker River Paiute Tribe), Sarah Wochos (Council of State Governments – Midwest). Several guests attended the session, including Eric Knox, Immediate Office of the Director, DOE/OCRWM.

Responsible Party

Action to be Taken

Jay Jones, DOE/OCRWM	Follow-up on meeting with leader of Moapa Band of Paiutes
Corinne Macaluso, DOE/OCRWM, Elizabeth Helvey, BSC	Revise 180(c) paper based on comments from this meeting and distribute to Group
Wilda Portner, SAIC	Summarize meeting and distribute to members for review
Jay Jones/Cori Macaluso, DOE/OCRWM, Wilda Portner, SAIC	Work with Legin staff to have documents distributed during Topic Group meeting loaded on TEC website
Jay Jones, OCRWM/Wilda Portner, SAIC	Arrange for next Tribal Group conference call in April

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SUMMARY:

Jay Jones (DOE/OCRWM) opened the meeting by acknowledging the presence of Tribal Leaders and Elders. He then previewed the session agenda and attendees went through a round of introductions. Randall Vicente, 2nd Lieutenant Governor of the Pueblo of Acoma, offered the invocation.

Update on DOE/Headquarters Tribal Activities

Kristen Ellis (DOE Office of Congressional and Intergovernmental Affairs) gave a brief overview of current activities at DOE Headquarters.

- On January 20, 2006, Secretary of Energy Bodman reaffirmed the DOE Tribal Policy with one change: “annual Tribal summit” has been changed to “periodic summits with Tribal leaders.”
- Title 5 of the Energy Policy Act created a DOE Office of Indian Energy Policy and Programs.
- A DOE Tribal Steering Committee (chaired by the DOE Assistant Secretary for Congressional Affairs) has been formed to address cross-cutting issues of Tribal interest; the first meeting was held on March 13, 2006. Representatives from the National Congress of American Indians and the Council of Energy Resource Tribes met with the Tribal Steering Committee earlier this month.

Ms. Ellis asked that any questions on these activities be directed to her at Kristen.ellis@hq.doe.gov or by phone at (202) 586-5810.

Tribal Interactions with OCRWM

Jay Jones described the OCRWM program for new members. He mentioned the letter that was sent to leaders of the 39 Tribes along potential Yucca Mountain shipping routes and that DOE and contractor staff have been following up with calls and meetings. He encouraged members of the Tribal Topic Group to participate in other TEC Topic Groups of interest to their Tribes. He also told the group he recently presented a paper on Tribal outreach and interactions at Waste Management in Tucson, AZ. He also mentioned the increased Tribal participation in the last Topic Group conference call and encouraged continuation of the trend. Finally, he told the group that the Transportation Frequently Asked Questions brochure is available from OCRWM.

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Yucca Mountain Update – Interactions with Yucca Mountain Native American Interaction Program (NAIP)

Greg Fasano (BSC) distributed a one-page set of talking points, which will be placed on the TEC website (www.tecworkinggroup.org). These points covered the following:

- The American Indian Writers Subgroup (AIWS) recently authored *American Indian Perspectives on Proposed Rail Alignment*, which will be included in the *Caliente Rail Line Environmental Impact Statement (EIS)*.
- An AIWS fieldtrip and meeting is scheduled for the week of April 3, during which time the group will evaluate the onsite portion of the rail line leading to Yucca Mountain, discuss the AIWS EIS reference document, and evaluate areas associated with the Environmental Assessment concerning onsite infrastructure development. A letter report will be prepared by the AIWS following these activities.
- During the spring of 2006, a Tribal update meeting will be held to recommend formal comments on the *Yucca Mountain Infrastructure Draft EA*.

Responding to a question on Tribal involvement in the Consolidated Group of Tribes and Organizations (CGTO), Greg indicated that Tribes were selected on the basis of a series of ethnographic studies and included those with historic and cultural ties to Yucca Mountain. A participant reminded attendees that a consolidated group of Tribes has no legal obligation or authority over individual Tribes.

Tribal Commentary

The floor was opened to comments from individual Tribal representatives. Key overall issues included:

- A request for additional consultation with DOE senior management;
- Yucca Mountain will impact more than the half-mile corridor;
- Mother Earth is sacred – economics should not be the only factor in decision making; and
- Tribes are sovereign nations – each Tribe speaks for itself.

Calvin Meyers, Moapa Band of Paiutes: Calvin Meyers said that when his Tribe invites Federal representatives to come, they always have something else to do and that upper management does not meet with the Tribes; other Federal employees have no power to say “yes.” He also told the group that the Caliente route does impact his Tribe even though it is 20 to 30 miles away. The impact of transportation on Tribal pathways and cross-overs needs to be considered; Tribal impacts are not set by boundaries and lines on a map. Tribal people have a connection to the land. Tribes don’t understand radiation basics.

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Stanley Paytiamo, Pueblo of Acoma: Stanley Paytiamo said he is a member of the National Congress of American Indians (NCAI) Nuclear Waste Policy Committee and has been to Yucca Mountain. He expressed concern over the contamination of the ground at Yucca Mountain, and its associated impacts on medicinal plants and wildlife; reminding the group that Mother Earth is sacred and that if a Native American says something is important to them, others should respect that. He also said that on the issue of consultation, just because a Tribe listens to what the Federal Government has to say doesn't mean the Tribe will do what the Government tells them. He concluded by reminding the attendees that there are more important things than economics when dealing with nuclear waste.

Joe Kennedy, Chairperson of the Timbisha Shoshone: Joe Kennedy opened his remarks with a reference to the recent meeting of the Committee for the Elimination of Racial Discrimination held in Switzerland. He distributed a copy of the Timbisha Shoshone "Early Warning and Urgent Action Procedure – Decision 1(68)," regarding the situation of the Western Shoshone indigenous peoples in the United States. He went on to discuss the lack of due process and the lawsuit against DOE. He stated that drilling at Yucca Mountain and storage of waste there is not allowed under the Ruby Valley Treaty of 1863, and urged DOE to consider what is best for all people in resource management. He also addressed the need for true consultation with Tribes.

Willie Preacher, Shoshone-Bannock Tribes: Willie Preacher expressed his concern over the potential impacts of transportation and waste storage at Yucca Mountain. He also asked if any of the SNF will be coming out of Yucca Mountain for reprocessing in the future and what will be done with the waste from that reprocessing.

Discussion of Section 180(c) Approach

Following commentary from Tribal representatives, Corinne Macaluso (OCRWM/ONT), led a discussion on the paper that was distributed by e-mail prior to the Tribal Topic Group meeting. The paper will also be made available on the TEC website. Key considerations of the paper include: optimal allocation method for providing funds to Tribes and eligibility of Tribes for funding.

Ms. Macaluso said that past discussions indicated that a needs assessment approach to Section 180(c) funding might be better than a formula approach for Tribes. She indicated that DOE will work with Tribes to develop a Needs Assessment Survey.

Comments and Questions

Ms. Macaluso indicated that Tribes will receive direct funding. The attendees continued to stress the point that a Tribal Peer Group for review of the Section 180(c) grant applications was desirable. This Group will identify approaches for maintaining

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funding over the life of the Yucca Mountain shipment project. She summarized the Tribal input received so far, including:

- Is population an appropriate measure for determining funding for Tribes?
- Aboriginal lands must be protected.
- Tribes do not want the half-mile measure used to determine funding.
- There is a 3 percent set-aside for the U.S. Department of Transportation's Hazardous Materials Emergency Preparedness (HMEP) grant program, whereas they understand there is at least a 6 percent set-aside for training funds.
- What factors are appropriate for determining funding?
- Who has authority for emergency response in the event of an accident? This would be key in determining Tribal eligibility for funding.

In response to questions from Tribal representatives, DOE offered the following:

- HMEP will continue to exist within the auspices of DOT.
- No Tribal funding match will be required for Section 180(c) funding.
- The needs assessment approach would preclude the need for census numbers.
- DOE has a trust responsibility to work with Tribes on Section 180(c).
- The online application process for funding works. Ms Macaluso encouraged Topic Group members to attend the March 15 demonstration of the online application process.
- DOE will work with Tribes over the entire length of the Yucca Mountain transportation program (about 24 years in life of program).
- Funding will be available 3 to 5 years before shipments begin.

Ms. Macaluso said comments from this meeting would be incorporated into a revised Section 180(c) paper that would be distributed for review among the Tribal Topic Group members. Topics identified for discussion on the next teleconference included a definition of jurisdiction and funds distribution.

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