

**TEC Tribal Issues Topic Group Conference Call
November 15, 2004**

Participants: Nancy Bennett (UNM/ATRI), Vicki Best (YMPO), Kevin Blackwell (FRA), Tony Bouve (FRA), Mike Calhoun (FRA), Greg Fasano (SAIC), Ed Gonzales (ELG), Elizabeth Helvey (BSC), Dennis Hurtt (DOE/CBFO), Jay Jones (DOE/RW), Dan King (Oneida Nation), Bob Lupton (DOE/OCRWM), Julie Offner (BAH), Ellen Ott (DOE/GC), Jennifer Patric (BAH), Wilda Portner (SAIC), Lisa Sattler (CSG/MW), Linda Sikkema (NCSL), Steve White (NAEMT)

Jay Jones (DOE/RW) chaired the call, which focused on Tribal outreach associated with future shipments to Yucca Mountain.

Action Items:

Responsible Party

Action to be Taken

All Tribal Group Members

Open discussions on 180(c) funding allocation methodologies; does a needs assessment and the formula method work for Tribes along the Yucca Mountain corridor? Discuss other key 180(c) issues and provide input to the 180(c) Topic Group.

Explore use of Tribal questionnaire on 180(c) issues.

Jay Jones

Redraft Tribal Notification Letter and circulate to group.

All

Send Jay Jones information on any Tribal organizations you feel would be appropriate as recipients for the letter.

Nancy Bennett

Update the Tribal matrix to include Tribal Historic Preservation Officers, Departments of Transportation, and other related organizations.

Jay Jones

Look into copying map onto CD so individual states can be pulled up on the computer for expanded viewing.

Wilda Portner

Send out email announcing December 15 Tribal Topic Group call.

Summary:

The call began with the usual round of introductions and an overview of the day's agenda.

Greg Fasano opened with an update on interaction with the Nevada Tribes. DOE held an update

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meeting on Yucca Mountain activities for the 17 Nevada Tribes in June, and there is a standing offer by the Department to visit any of those Tribes to discuss Yucca Mountain. The current focus is the Caliente Rail Corridor. The American Indian Writers Subgroup for the Repository EIS (two representatives have been selected from each ethnic group) is writing a document on the Caliente Corridor that will be incorporated in the Rail EIS. The Timbi-Sha Shoshone Band of California is the latest addition to the group. The Tribal members who are writing the document took a field trip along the Caliente Corridor from October 22-24 and will stay for a couple of days after the November 30-December 1 Tribal update meeting to work on the draft document. The draft is expected in late January 2005. DOE will remain in contact with the 17 Tribes by letter and phone.

Elizabeth Helvey then made a short presentation on activities involving Section 180(c) of the Nuclear Waste Policy Act, which mandates that DOE provide funds and technical assistance along the repository route. Elizabeth reported on the TEC 180(c) Topic Group, which has been active since July 2004. Key issues that need a Tribal perspective include the funding distribution method, funding allocation, and allowable activities. Input to the Topic Group is indicating a preference for grants over cooperative agreements. In 1998 the approach focused on a needs assessment, now there is a preference for a formula method for funding. The 180(c) Topic Group would like the Tribal Issues Topic Group to explore if that would work for the Tribes along the Yucca Mountain Corridor. The consensus of the 180(c) Topic Group on allowable activities seems to be that as long as the activity meets the requirements of the law, the recipients should be allowed to determine how to spend the money and cover it in their grant application. The question arose of how the money will be tracked, to ensure the recipients are following the law. Corinne Macaluso (DOE/RW) is hoping the Tribal Issues Topic Group will take up some of the key 180(c) issues and discuss them and then provide input to the 180(c) Group. Ed Gonzales suggested a Tribal questionnaire on 180(c) might be useful. The group agreed. The Tribes to be focused upon at this point will be those on the list of "40 Tribes" along the Yucca Mountain Corridor. Other Tribes will be considered on a case-by-case basis, as needed.

Next, Jay Jones reported on Security issues. He said that DOE tends to work with the State Regional Groups (meetings held twice a year) through Cooperative Agreements. DOE needs to get a letter out to the 40 Tribes on the corridor list in order to begin working with them as is now done with the States. Nancy Slater Thompson is the DOE lead for the TEC Security Topic Group. That group hopes to involve Tribes in security planning (preparing security policies, operations plans, etc.) over the next few months through the Security Topic Group. The Security Group has four major areas of focus: jurisdiction (Federal, State, Tribal, local), communications (physical and informational), developing procedures for operations, and public information (balanced with the need to protect sensitive information). DOE intends to involve all stakeholders, including Tribes, in future Security Topic Group activities.

Jay Jones then reported on his trip with Steve Grey (DOE, Director of Indian Affairs) to visit some of the Western Tribes. Jay participated in meetings with the Umatilla (Oregon) and Yakima (WA) Tribes to hear their concerns on DOE programs (Kevin Clarke is the DOE Tribal point-of-contact in that region). Key issues included cleanup of Hanford, cultural issues, land transfers, pollution of the Columbia River and DOE shipments through the reservations. In those meetings, Jay introduced the fact that RW will be sending out letters to the Tribes to initiate

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interaction on Yucca Mountain and to introduce DOE's intent to visit the corridor Tribes to discuss such issues as 180(c), and routing. Jay also visited the Shoshone-Bannock Tribes of the Forth Hall Indian Reservation in Idaho (Bob Pence is the DOE Tribal point-of-contact). Discussions there centered on INEEL and Naval shipments. A side issue was the icy condition of some railroad crossings on the reservation. Kevin Blackwell said the Federal Railroad Administration (FRA) has a Highway Rail Crossing Program, but that he and Mike Calhoun could serve as points-of-contact on the issue. All of the Tribes visited were encouraged to participate in TEC.

The major topic of discussion on the call was the Tribal notification letter that has been drafted by DOE/RW. RW is trying to keep the letter simple. The letter will be sent to the leaders and other appropriate members of the 40 Tribes identified along the Yucca Mountain corridor, and will introduce them to the RW program. The concurrence chain for the letter will include DOE's Offices of the General Counsel and Congressional and Intergovernmental Affairs, in addition to RW management. Comments from call participants included:

- The current draft of the letter says "Your Tribe has been identified as one that could be impacted..." Callers recommended softening the word "impacted," and Dan King suggested "involved" would be a better word. The group agreed.
- Dan King also said the draft letter is "pretty good" and that the proper protocols seem to be in place for it to go to Tribal Chairs.
- Ed Gonzales suggested the legislative requirements text be moved to the beginning of the Letter.
- After a brief discussion on the attachments that should accompany the letter, it was agreed that a statement should be included in the text that says DOE will be providing additional information later (map of potential routes and Tribal lands, information on 180(c) eligibility, and ways for Tribes to get involved in Yucca Mountain transportation planning and decision making, etc.). Jay suggested a copy of the DOE Indian Policy should accompany the letter.
- Elizabeth Helvey suggested adding a one-liner stating that the letter and subsequent DOE followup would be the first steps in DOE funding and technical assistance to the Tribes along the Yucca Mountain corridor. This would give the Tribes a reason to care about the process.

A short discussion on appropriate Tribal points-of-contact for the letter followed. The Navajo Nation Department of Transportation was mentioned. Jay asked Nancy Bennett about the availability of information on other Tribal contacts, such as Historic Preservation Officers and Departments of Transportation. Nancy had left the call at this point. Jay will ask Nancy to update the matrix reflecting other appropriate points-of-contact. It was also suggested that the statement be added back into the text of the letter asking Tribal Leaders to make sure the correct person(s) in the Tribal organization receive the letter.

Vicki Best noted that DOE should be prepared to fax a copy of the letter to the individual on the other end of the phone line when RW makes the follow-up phone calls mentioned in the letter.

Linda Sikkema reminded the callers about upcoming Tribal elections (through the end of 2004). Ed Gonzales suggested waiting till after the beginning of the year to send out the letters, to allow for new Tribal officials taking office. Jay will redraft the letter and send it out to the group

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before it goes into the DOE concurrence process.

A related issue was the national map showing possible routes to Yucca Mountain and Tribal lands. The "1/2 mile limit" came up again, as did discussion on why some Tribes are included on the map and others not. Jay responded that some Tribes will be considered on a case-by-case basis and that some of the Tribal lands were too small in scale to show up on this map. A request was made that the map be placed on CD and distributed to the Tribal Topic Group and other interested parties, so that individual states could be pulled up on the computer and expanded for viewing. Jay said he would check with Paul Johnson, the generator of the map. Ed Gonzales wants to share the map with the NM Department of Transportation when DOE feels the time is appropriate. In response to some questions on the use of rail traffic patterns in development of the map, Jay responded that the TRAGIS model was used and he thinks only the available main rail lines were used. He announced a TRAGIS workshop being held in Oak Ridge, TN, for the State Regional Groups (January 18-20).

Once again Jay was asked about how the list of 40 Tribes was generated. He responded that Paul Johnson used TRAGIS to pull up Tribes within 1/2 mile of the projected routes. Questions should be referred to Paul Johnson.

Next on the agenda was the topic of getting more Tribal involvement in TEC. Dan King suggested the TEC be held in the Midwest so the Potawatomi and Ho-Chunk Nations could become more involved. Dan could explain the Oneida Nation's involvement in TEC and related DOE activities. Lisa Sattler said that the State Regional Groups are working on getting the Tribes more involved in their activities, but wanted to give DOE the opportunity to enhance Tribal involvement in TEC first. Linda Sikkema suggested DOE get David Lester, the Executive Director of Council of Energy Resource Tribes (CERT) in Denver, involved in TEC.

RW is working on scheduling the next TEC meeting for February or March 2005, location to be determined. The next Tribal Topic Group call is scheduled for December 15, 11 a.m. Eastern time. An announcement will be sent to the group. Calls in 2005 will tentatively be scheduled at 11 a.m. Eastern time on the second Wednesday of each month.