

**STATE AND TRIBAL GOVERNMENT WORKING GROUP (STGWG)
Santa Fe, New Mexico
May 14-17, 2007**

MEETING NOTES

**STGWG ONLY SESSION
May 16, 2007**

**STGWG OPEN SESSION WITH U.S. DOE AND NCSL'S LEGISLATIVE
ROUNDTABLE
May 16, 2007**

**THE STATE OF EM – AN UPDATE ON THE DEPARTMENT OF ENERGY OFFICE OF
ENVIRONMENTAL**

*Dr. Ines Triay, Chief Operating Officer, U.S. Department of Energy Office of
Environmental Management*

- Mission of EM is to clean up the legacy of the Cold War. First priority is to make sure that operations are conducted safely and in compliance. Second, deliver objectives on schedule and within budget.
- Program employs over 25,000 workers over 14 states with a \$6 billion budget.
- In the past, there have been very long projects that spanned decades and cost a great deal. In some cases, the very aggressive goals that they established simply weren't achievable. For example, even in cases where EM had complete control over activities, sometimes contractors are not entirely equipped to deliver a product on time and within budget.
- Accomplishments:
Rocky Flats finished 14 months ahead of contract schedule. Over 2,000 shipments of TRU sent from RF to WIPP. Decontaminated and decommissioned 805 facilities at Rocky Flats.
- 1050 acres at Fernald intended for wildlife. 1.7 million metric tons of waste have been shipped out of Ohio.
- SRS approach was to clean a particular area. 28 facilities cleaned this year. A liner was emplaced.

- At Paducah, 17 outside material areas were cleaned up.
- Success can be attributed in part to the Carlsbad community and the NMED, specifically James Bearzi. First shipment to WIPP came from Idaho.
- Work ahead includes identification of completion dates at certain sites. Emphasis of Secretary Rispoli remains on safety. Second priority is RHW and CHW disposal. Third is to decontaminate and decommission remaining facilities.
- Incorporation of safety in planning of capital projects. There have been some growing pains in incorporating safety into the early stages of design. They are incorporating quality assurance of work in early planning stages.
- Project management needs to include baselines that express what will be necessary to clean up legacy sites. In measuring progress, an intragovernmental system is used to make sure that project management is of the highest caliber. Quarterly reviews of each project are conducted to measure performance in various areas.
- A tremendous amount of progress has been made. Priorities have been set to guide ongoing work. EM holds itself to the highest of standards and continues to strive for operational excellence. The program also continues to place a heavy emphasis on the input from states, tribes, and local governments to address areas of weakness and continue successful operations.

DOE-EM FY08 BUDGET OVERVIEW

Mark Frei, Deputy Assistant Secretary for Planning & Budget, U.S. Department of Energy Office of Environmental Management

- 2007 operating plan is \$6.1 billion. About half of this is applied to risk reduction activities.
- In 2008, about 32 percent of budget request is dedicated to tank waste disposition. Soil and ground water remediation funding have been increasing in recent years. (08 request is 5.6 billion.)
- Through 2008, 89 of 108 sites will be cleaned up.
- EM out-year funding – Over five year period, additional funding will be provided in the out years. EM will continue to work to secure additional funding in the near term and out years to achieve risk reductions.
- Rispoli continues to emphasize safety and program management. Working to apply lessons learned, improve training, and get the most “bang for the buck” provided.

- After the completion of some smaller sites, EM will begin working on more of the major facilities like Hanford.

QUESTIONS AND ANSWERS WITH INES TRIAY, MARK FREI, AND FRANK MARCINOWSKI

- John Owsley (TN): Plans look good for out years, but plans for 08 have some difficulties. What happens in 07 and 08 for states that do not share DOE's priorities?
 Dr. Triay (DOE): We are working with states to address issues where the 08 budget is not sufficient to meet milestones, as well as working with the states themselves. Program is putting a great emphasis on increasing efficiency.
 Frank Marcinowski (DOE): Our intent is to meet milestones. Just this morning, I had a conversation with Steve McCracken on this issue.
 Mark Frei (DOE): DOE-EM FY08 Budget request's "Policy, Management, and Technical Support" section (MS 100) on pages 501 through 504 provide the tribal line-items, including STGWG.
- Russell Jim (Yakama): Hanford is in the Yakama's front yard. We have heard the term meaningful dialogue a lot, but it is still lacking. How "clean" is clean? There is a perception of the Yakamas being environmental obstructionists, when in fact, we have a strong environmental ethic. I respect this type of dialogue with Dr. Triay. But, tribes are still on the periphery and DOE needs to better respect treaty rights. For example, the delay with the Indian Policy Implementation is not acceptable.
 Dr. Triay (DOE): I appreciate what you are saying. Jim Rispoli truly cares about communication with tribal nations and I will make sure that we do our best to consult with tribes.
 Michael Richard (DOE): DOE's American Indian/Alaskan Native Policy is in effect. EM, with STGWG support, has led the way on the Implementation Framework.
- John Heaton (NM Rep): From the legislative standpoint, reductions in overall EM budget are concerning. When a site is finished, the money that had been assigned to those projects should be assigned to others to accelerate overall progress.
 Dr. Triay (DOE): We would like to get back to higher overall funding levels in coming years, as is indicated in our Five-Year Plan. It should be noted that budget planning happens 3-5 years ahead of time.
 Mark Frei (DOE): Emphasis on the new Five-Year Plan.
 Dr. Triay (DOE): Independent validation of baselines helps DOE-EM make the case for increased budgets in coming years.
- John Heaton (NM Rep): The WIPP budget has been increased, but the reality of adding RHW cannot be done at the current funding levels.
 Dr. Triay (DOE): There is no question that from an optimal perspective, there would be more funding, but they have to balance priorities. Because SNF and

other executive priorities, EM has had to compromise all priorities including the budget of WIPP and the sites shipping to WIPP. Aiming for an "integrated approach". David Moody and Frank Marcinowski are your Points of Contact regarding WIPP.

- John Heaton (NM Rep): In the complex cleanup, it is becoming apparent that Yucca Mountain may not open. In dealing with GTCC and other orphan waste, what are alternative pathways for this waste?
Frank Marcinowski (DOE): For GTCC and sealed sources, DOE is in the process of finding a destination (out of 6 possibilities) for this material. On July 21, there will be a scoping meeting in Carlsbad.
- James Bearzi (NM): DOE underestimates the public participation process---DOE site managers need to recognize the importance of public involvement. The budget numbers are opaque in a sense---How does the 5-year plan translate into meeting legally-binding milestones?
Dr. Triay (DOE): Communication is important and we are committed to doing better regarding public participation. Regarding the budget, validation of baselines is key to making future requests. DOE needs to determine where the truth lies for correct assumptions to be made. DOE welcomes comments on baselines.
- Armand Minthorn (CTUIR): During EM budget presentation, there was no mention of money for natural resource assessment? What is there? When will it begin and be completed?
Matthew Duchesne (DOE): The approach to NRD varies from site to site. Up until now there has not been funding for NRD in Hanford's budget. We will fund it in the short term with available funding from other sources within Hanford's operating budget. It will be a multi-phase and multi-year process. Right now there is not a timeline for when the assessments will be complete. We envision it being a multi-year process.
- Armand Minthorn (CTUIR): Consultation with tribes is inadequate, and changes should not be made without their input.
- John Maybriar (KY): It would be in the best interest to meet with the state before the Site Management Plan is issued to get an idea of what the state is intending to do.
Dr. Triay (DOE): I will commit to a discussion with the site office. They will deal with stakeholders differently when dealing with the SMPs.
- John McCoy (WA Rep): Tribes just want to know what activities are going to look like, and encourage the inclusion of at least a couple of tribal members in a planning committee.

AN UPDATE ON THE WASTE ISOLATION PILOT PLANT

*David Moody, Field Manager; Department of Energy Carlsbad Office
James Bearzi, Chief; Hazardous and Radioactive Waste Bureau, New Mexico
Environment Department*

- WIPP is a major part of the DOE complex, acting as a repository for seriously contaminated waste.
- Remote-handled waste disposal was always envisioned at WIPP, but the permit revision came later in the process.
- Safety is the first priority along with communication with stakeholders.
- The site was constructed with all the equipment it needed to handle RHW. CHW crew was also provided additional training for RHW.
- RH Permitting process included 4 permit modifications. They decided to try and combine these four into one permit modification. After meeting with DOE informally, they drafted a permit. During the public comment period, very well informed activist groups expressed some legitimate concerns.
- Through a high-quality negotiation process, driven by NMED, key activist groups agreed to go along with a set of terms pending the approval of the Secretary.
- First RH shipment arrives at WIPP January 23, 2007. In order to get to important points of concern, you have to make it through the extreme and often unsubstantiated concerns first. Because of transportation, and because it goes through poor counties with high percentages of minority populations, the permit decision has been appealed.
- Neil Weber (San I Pueblo): When you talk about the fanfare of the first shipment, what route did it actually take?
A: Arrangements had been made on account of weather issues. Along the way, the driver mistakenly took a wrong turn and unfortunately traveled through a tribal sacred area.

PRESENTING “THE POLITICS OF CLEANUP”

Seth Kirshenberg, Executive Director; Energy Communities Alliance

- Appropriations Act and National Defense Authorization Act – House has said that funding for EM will remain where it is. Senate has not released its intentions. House usually focuses on moving funding up for places like WA and Tennessee. On the Senate side, it’s more NM and Hanford.

- When pursuing the completion contract, funding increases were seen regularly. Since the closure of many sites, funding has gone down. Members of Congress who had made the project a priority have downgraded its importance as well.
- The current projects are difficult and take place over a long period of time. The politics involved tend to make the process even more complicated and tend to prolong the process even more. Consideration of the “long term” has allowed progress to be made. Must move past the short term.
- Cleanup does not mean the same thing to everyone. It’s a risk based process, and we need to identify its meaning for everyone. For example, differences between DOE, Congress, Tribes, States, EPA, etc. Everyone must understand each other’s goals and priorities even when there is disagreement. DOE originally set a particular level for a given site, which was adjusted as a result of input from other parties (like the state). Eventually, they came to an agreement on an appropriate cleanup level. Goals are critical in discussions. Also, the legal minimum requirements (particularly in terms of participation) are never enough. When others understand DOE’s goals, other stakeholders can try to match common interests. Understanding DOE’s leadership is also important.
- Building workable relationships through communication and trust is critical. Often times, it is easy in a bureaucracy to ignore past faults rather than taking lessons from them. Because there are always new people entering the process, it is important to educate them as they come in.
- Congress must make cleanup a priority.
- Organization, and “speaking with one voice,” is important to express priorities and to give them weight.
- Local DOE presence facilitates cleanup. When you’re involved in the community, you will have much more influence over cleanup.
- Do not take no for an answer regarding your goals. DOE won’t take it, so the community shouldn’t either. Arguments must make sense, but if they do, power likely rests more with the public.
- Watch this year, because we will see decreases in funding if we do not watch out.
- Educate, communicate, and continue to celebrate success.
- Q: We have heard about significant funding gaps, what can we expect?
Seth Kirshenberg (ECA): When you are trying to lobby Congress funding, you must determine what Congress’ priorities are. Right now, the achievement of

milestones is the priority, but DOE says states are inflexible. Right now, it doesn't appear that the support is there in the House, at least not yet.

- Speaker Lujan (NM House): Cleanup is not progressing at Los Alamos.
Dr. Triay (DOE): A new contract is in place and it is expected that cleanup work can move forward.
Seth Kirshenberg (ECA): Senator Domenici and Bingaman are on top on the cleanup dollars and the inadequacy at LANL.
- Tom Bailor (CTUIR): If the money is not going to the war, where is it going to that is creating the shortfall?
Seth Kirshenberg (ECA): Congress has said that the war is a priority, and there are shortfalls in the respective branches, and it's hard for cleanup to compete with those other priorities.
- Bob Geller (MO): Commends Seth and ECA on the book. There appears to be common themes going beyond cleanup, and the principles laid out in the report can serve as guidelines for efforts to have an impact on all DOE and DOD programs.
- John Heaton (NM Rep): Tremendous progress has been made, and the National Laboratories are the country's crown jewels of the nation's science system. It pains me to hear the criticism of sites like Los Alamos because of cleanup issues. Cleanup is a low priority for NNSA, and it is driving public relations.
Dr. Triay (DOE): NNSA law is clear. Bechtel and the Washington Group have a record of cleanup and improvements will be seen.
Seth Kirshenberg (ECA): I do a lot of work with Los Alamos County. The contract that was in place was not productive, but changes are being seen.

LONG-TERM STEWARDSHIP

Tony Carter, Program Analyst, U.S. Department of Energy Office of Legacy Management

- Office of Legacy Management created to reduce the impact of past actions. Director has served in previous administrations. About 2 ½ months ago, LM was recognized as a high performing organization.
- Main goals include protecting human health and the environment through long-term surveillance and maintenance, preserving legacy records, supporting workforce pension and related benefits, and manage land assets and property re-use.
- In instances where institutional controls are necessary, they will track state activities of establishing institutional controls so that the two do not conflict.

- LM sites span the country including AK and PR. Rocky Flats and Fernald are the main sites.
- Communication with stakeholders is key, and they are involved in virtually all of the Office's activities. Regular stakeholder meetings, and they clearly understand what activities. In CO and UT, OLM works closely with tribes, who perform some of the monitoring for the Office.
- A large portion of the LM budget will be directed to retirement activities. The CR has no impact on monitoring and maintenance activities. In 2008, LM will have its own budget.
- Record keeping responsibility is important as well to keep up with regulatory and public health requirements. OLM has department-wide responsibility for contractor work and labor standards.

Trina Martynowicz, Tribal Coordinator, U.S. Environmental Protection Agency Federal Facilities Restoration and Reuse Office

- Restoration and reuse process
- About 4 years ago, created a cleanup program that coordinated with all of their cleanup offices.
- LTS Taskforce created in 2003 to address LTS issues. About 6 challenges have been determined. Also identified ways of addressing these challenges, stakeholder involvement, potential costs, and how to document LTS activities. Recognized the need to improve relationships with affected stakeholders. Working to coordinate more closely with other federal agencies as well.
- Created a set of lessons learned from various regional experiences. Came to conclusion that existing federal facilities do not always work for LTS activities. Roles and responsibilities often change in the transition from cleanup to LTS work.
- Working on post-construction completion strategy. Make sure that sites continue to be protected over time.
- Encouraging the participation of the different regions as much as possible.
- Tracking Database will keep track of regulations and restoration and re-use at specific sites and (Google earth).

Deborah Griswold, National Nuclear Security Administration Service Center

- NNSA asked that there be an organization for work at NNSA sites.
- 9-5-06 memorandum set terms of transfer.
- Deferred Remediation
- Unanticipated Remediation – what you thought the standard was is no longer acceptable.
- Implementation process covers approximately 5 years from start to finish. Through work authorization, NNSA is saying that the proposed process has been approved and it will provide funding on an incremental basis. Performance management element is monitored separately, despite its small piece of the budget. Performance management tracks meeting regulatory requirements and meeting small cost reduction goals.
- NNSA LTS Scope includes Sandia and Kansas City sites. Pantex and Livermore will complete in 08 and begin LTS in 09. NNSA is not pursuing real active plans for NTS because it is so far into the future.
- John Maybriar (KY): To Tony Re: Health Records – can you tell us what tracking (e.g. cancer clusters) is being done? Specifically as related to the Paducah Worker Cohort Epidemiological Study being conducted by the University of Louisville
 Tony Carter (DOE-LM): Unfortunately, I cannot answer that, but I will get an answer by the morning. All records collected at closure sites were transferred to LM.
- Q: Would assume that all would like to transfer control property over to the municipality or state once a certain cleanup standard is achieved. How much longer will you be involved in site monitoring at these facilities?
 A: Ines – At the end of the day, if there is an issue involved in the cleanup, the government is ultimately responsible. In most cases, when a site is transferred, an independent entity is brought into evaluate the site. Typically, a site will not be transferred if monitoring is still necessary.
- Bob Geller (MO): In terms of LTS at LLNL, what are the factors that determine the estimate at Law. Livermore and make the projections so much higher than Sandia and Kansas City?
 Deb Griswold (NNSA): Numbers at Sandia are low because of the lack of groundwater remediation. At KC, there is a very active pump and treat system. LLNL is currently looking at technical elements that could lower costs.
- Bob Geller (MO): From Missouri's standpoint, Kansas City is an operating facility. Who is responsible for the permit conditions that had been placed on the site? Is it EM responsibility? NNSA? GSA?

Deb Griswold (NNSA): Preference for EM to take control because it was established to address these issues. Decision is pending about what to do if it is decided to close a site..

- C: DOE has a trust responsibility to engage in consultation with tribes due to trust responsibilities, and interaction does not equal consultation.
- C: Before the state was willing to accept a sell, a protection system had to be established that would remain in place forever.
- Brian Barry (Yakama): How will you maintain institutional controls 100 years or further into the future?
A: All I know to say is that the tribes need to be at the table to explain their intended land use as we move forward in the decision making process. We need to hear all concerns in order to take them into account and factor them into decisions.

NATURAL RESOURCE DAMAGES

Rebecca Neri Zagal, Executive Director, New Mexico Office of Natural Resource Trustee

- Executive Director of the New Mexico Office of Natural Resource Trustee
- There have been various meetings and correspondence with DOE that speak to the following issues:
 - Encouraging a cooperative assessment that is integrated within the cleanup process
 - Drafting and signing a Memorandum of Agreement between the federal and non-federal trustees.
 - Tolling agreement with between the United States and the state and San Ildefonso
- The non-federal trustees are looking at the scope of work required for two watersheds.
- Issues of concern:
 - Who is the lead administrative trustee? Non-federal trustees feel that they should be, but DOE disagrees.
 - The process to be used for damage assessment.
 - Fundamental disagreement with DOE's approach to engage trustees only at the remedy selection phase.
 - Level of commitment to "natural resources"
 - DOE should fund trustee effort

Peter Chestnut, Tribal Attorney, Pueblo de San Ildefonso

- NRD is getting on DOE's agenda because of the work STGWWG states and tribes have done. I am pleased with having this panel today.
- The Hanford change in policy is good, but how is it going to be implemented.
- San Ildefonso Pueblo borders LANL and is down canyon---there are sacred areas next to waste pits. Cultural resources should be protected.
- There is an important sovereignty dimension to being involved in the NRD process.
- Pleased with the relations between San Ildefonso and the New Mexico natural resource trustee.
- Discussions have been confidential and not open to the public.
- Need funding for participation---a letter sent by the trustees to the Secretary resulted in a series of meetings.
- Assessment should be done by contract.
- How will the Trustee Council operate?
- DOE has legal concerns about admitting that damages exist.
- Focus is on gathering information to assess the extent of damages. Preliminary plan is for restoration.
- Hanford process: several years and millions of dollars spent.

Gabriel Bohnee, Director, Environmental Restoration and Waste Management, Nez Perce Tribe

- Involved with the Natural Resource Trustee Council as Director of the Nez Perce Environmental Program. At first, I was overwhelmed, but am starting to catch up.
- By-laws--unanimous consensus; veto power by DOE impeded progress
- 2005, first Senior Trustee meeting.
- The dialogue, communication, and trust that was mentioned by the New Mexico Indian Affairs Department holds true in the context of NRDA. Need to get the trust part down, and assessment can proceed. An end point is also needed.
- Nez Perce committed to protecting the resources of the site for future generations.

- Keith Klein's use of terms is sometimes confusing; already a risk-based process now.
- Overall, I am a student in this process and am learning from my elders.

Tom Winston, Chief of the Southwest District Office, Ohio Environmental Protection Agency

- Discussion of the chronology of the state of Ohio's NRD claim against DOE. The remaining portion of the claim only relates to groundwater contamination and is still unresolved. Through the discovery process, expert witnesses were hired by both sides. DOE estimates natural resource damages ranging from 1.7 million to 3.4 million dollars. The state of Ohio estimates natural resource damages ranging from 93 million to 4 billion dollars. This litigation is unresolved at the moment.
- Unique to the state of Ohio and the NRD litigation is the Ohio Rule on siting new well fields (background, not MCL).
- I don't want to diminish the success story on NRD at Fernald. Restoration activities related to terrestrial contamination were successfully integrated into the cleanup.

Matthew Duchesne, Office of Compliance, U.S. Department of Energy Office of Environmental Management

- Matt Duchesne's role in EM---has been in the Office for 3 years. First as a policy advisor. I was asked to work on NRDA because of the legal aspects. Now, time is split between NRDA and other regulatory issues. Sites have responsibility to execute the NRDA process, but I provide higher-level policy advice. I'm the central Point of Contact on NRDA at Headquarters and I will work with states and tribes to begin the NRDA process.
- Historically, NRDA has been left to the sites to deal with. DOE-EM does have a policy of integration, but it was left to the sites to implement. This has changed (NM ex.), but sites are still expected to take a leadership role.
- NRDA across the complex:
 - *Fernald*--NRD litigation ongoing on groundwater; terrestrial restoration has been very positive.
 - *Weldon Springs*--beginning the process with the state of Missouri; interpretative center in place I don't think I said this about the interpretive center, although I believe there is one in place).
 - *Oak Ridge*--Phased approach as various sites close; conservation easement on one site.

- *Rocky Flats*--Congressional legislation allocating \$10 million dollars to the trustees resolved any potential NRD claim.
 - *Los Alamos*--DOE has not been very quick, but are pushing for a path forward.
 - *Hanford*--Change in policy to conduct a cooperative assessment this early in the cleanup process.
- At Hanford, what is the process going to be for assessment? Hesitant to answer because the process is still evolving. The trustee council operates on two levels, one comprised of Senior managers and the other of technical personnel. Still looking for input on functionality. The first step is an assessment plan that will be developed in the next 12 to 18 months.

What about funding? Seed money is currently available and DOE will ask for specific money for NRDA in FY09 according to the Richland office. We can't put NRDA above risk-based cleanup/milestone compliance priorities. This is a major problem across the complex. A zero-sum game with a lot of trade-offs.

- Susan Hughs (OR): Same concerns as Rebecca and Peter in New Mexico. I am a member of the Technical Trustee group at Hanford and am ready to fully participate. Trust is the key issue. What is the process that will be followed for the assessment?
Matthew Duchesne (DOE): I don't know if the DOI regulations will be followed. Fernald and Oak Ridge, for example, did not use the DOI regulations.
- Susan Hughs (OR): Hanford transferred a parcel of land to the Pacific Northwest Site Office (Office of Science) and there is concern among the natural resource trustees that Science will not agree to any remediation or restoration activities of critical habitat.
Dr. Triay (DOE): Assures Susan that this is not a DOE-EM attempt to circumvent the law. Asks Susan for background on this issue and she will follow-up on it.
- Brain Barry (Yakama): Regarding budgeting for NRD activities, life-cycle costs have increased by over \$50 billion. There would be life-cycle cost savings by doing cooperative assessments.
Dr. Triay (DOE): Bottom line is to press forward with operational funds. It is the right thing to do, and cost-savings might be realized.
- Bob Geller (MO): The federal government has the clear legal responsibility to do an injury assessment (not damages). Does DOE acknowledge this?
Matt Duchesne (DOE): DOE has not drawn that distinction.
Bob Geller (MO): If DOE has a risk based compliance budget, doesn't NRDA fall into this?
Matt Duchesne (DOE): Distinction between regulatory milestones; nothing in statutes dictate **when** DOE must perform an injury assessment.

- Armand Minthorn (CTUIR): LANL difference between cultural and natural resources.
 Matt Duchesne (DOE): Must fall within the natural resource definition under CERCLA; nothing has been decided or defined at LANL yet. Regarding questions on Hanford NRD, according to statute, DOE is a trustee but other federal agencies are treated as equals (NOAA/FWS). I am not too involved with tribal issues at Hanford outside the NRD context, but am willing to setup separate high-level meetings.
 Rebecca Neri Zagal (NM): Regarding the definition of cultural resources, we have not agreed on anything yet. And, we don't have to in order to move forward.
- John Maybriar (KY): What type of data is needed to begin the assessment phase?
 Tom Winston (OH): Robust CERCLA data was used in Ohio's case.
 Matt Duchesne (DOE): John Bassieto is a good technical Point of Contact
 Dr. Triay (DOE): Will take this back to HQ to get a technical response
- Governor Mountain (San I Pueblo): San I has a very capable environmental staff under the direction of Neil Weber, and capable legal council in Peter Chestnut. Funding for NRD is a big issue. Cultural and natural resources are one in the same. Our relationship with LANL is high. The site office understands/adheres to the 4 Accord consultation. Washington D.C. needs to get on board.
- Russell Jim (Yakama): Appreciates the dialogue we are having today. Injury assessment is key, especially in the case of Indians and natural foods and medicines. Difference between end states. If DOE complies with treaty rights, we will help them reach an end state. Over 5 trillion dollars have been spent on the nuclear weapons program. At 170 billion, cleanup costs are only 3% of the Atomic weapons program. Hanford budget decreasing. Need to agree on cleanup end states.
- Brian Hembacher (NAAG): Regarding the time clock, it has to be hard to justify spending money now on NRDA, rather than pushing it back. Must realize the cost-savings involved.
 Dr. Triay (DOE): Michael Richard and Matthew Duchesne have been advocates of a proactive, common-sense approach. Example is the recent policy shift on NRDA.
- John Maybriar (KY): What can STGWG do to assist DOE in their budget request?
 Dr. Triay (DOE): FY08 is complete; but, for FY09, engage DOE to make better requests.
 Matthew Duchesne (DOE): Hasn't gotten the message on Paducah's NRDA concerns, but will follow-up.
 Tom Winston (OH): Collective positive message that working together on these issues can lead to environmental protection, cost savings, etc.

DEPARTMENTAL TRIBAL ISSUES

*Michael Richard, Deputy Assistant Secretary for Intergovernmental and Tribal Affairs,
U.S. Department of Energy Office of Congressional and Intergovernmental Affairs*

- Introductory comments: It's good to get out of Washington D.C. and see what DOE does in person, whether its meeting with STGWG or taking site visits. I believe strongly in the various DOE missions. DOE's relationship with Indian Country is a work in progress. My hope is to further engage in forums like STGWG, which should serve as a model working group for DOE. The Office of Nuclear Energy is looking at the STGWG model for the GNEP process. Also, the Energy Efficiency and Renewable Energy Office at DOE has an active tribal program with over 76 projects and \$12 million to support and promote, among other things, tribal colleges and small businesses. We will continue to work hard to have senior level meetings in D.C. on tribal issues. Overall, the current state of DOE-Tribal relations is good and will be further improved in the future with a commitment to government-to-government consultations, as called for in DOE's American Indian Policy.
- 4 Departmental tribal issues are covered in this session: (1) the Implementation Framework for DOE's American Indian/Alaskan Natives Policy; (2) the Office of Indian Energy Policy and Programs; (3) the request for a Tribal Summit; and (4) the Rights of Way study under the Energy Policy Act.
- Implementation Framework: AI/AN policy has been in effect since 1992 and Secretary Bodman reaffirmed it in 2002 as one of his first acts in office. STGWG played a critical role in drafting the Framework, providing comments to DOE-EM, and pushing for other DOE offices to adopt the document. The concurrence process is complete with respect to EM, NE, CI, and Science. Currently, the concurrence package is awaiting Secretary approval. During the concurrence process, some small changes have been made and STGWG tribes will have the opportunity to comment as the Department views the Framework as a living document.
- Office of Indian Energy Policy & Programs: Title V of the Energy Policy Act of 2005 created the Office of Indian Energy. Although nothing is yet to become official, I am pleased to announce that the President has offered an appointment to an American Indian with excellent credentials to head the new Office. The candidate came from tribal recommendations. Work is far from done and now is the key time for further STGWG input on composition and functions of the new Office.
- Tribal Summit in 2007: DOE is thankful for the STGWG letter requesting a Summit this year. At this time, the Secretary has decided not to move forward with organizing a Summit. One reason for this decision is the negative feedback

from the last Summit, and the hesitation to plan another Summit that is doomed for failure. DOE would like to continue to work with STGWG tribes in forums similar to this. Perhaps, future interactions with STGWG tribes (on the full range of DOE programs) could be site-specific or regional in scope. Can we enhance the STGWG forum to rise to the level of a Summit?

- Right of Way Study: Just today, DOE and DOI completed a study on potential Rights of Way disputes under the Energy Policy Act of 2005. DOE is happy to announce that it has urged Congress to respect tribal sovereignty by staying out of rights-of-way disputes unless the disagreement has a significant effect on regional or national energy supply. This decision is evidence that the Secretary is listening.
- Tom Bailor (CTUIR): NREL budget for tribes is only \$3 million, which is far from adequate.
Michael Richard (DOE): I am here to advance and defend the President's Budget. That said, through the Tribal Energy Steering Committee, there can be education efforts to power administrations, etc. This could be a function of the new Office of Indian Energy Policy & Programs.
- Willie Preacher (Shoshone-Bannock): Thank you. Tribes are seeking constant and continuous follow-up on the comments that you made today. STGWG tribes will provide organizational support and planning for a mini-summit or STGWG-only Summit.
- Michael Richard (DOE): What do STGWG tribes expect out of consultation so that DOE can better address your concerns? Regarding the Summit, DOE does not want to see another 2004 episode, and hopes to ensure that future engagements are meaningful.
- Russell Jim (Yakama): We are consistently told that there is a shortage of funds. Tribes also have concerns about GNEP.
Michael Richard (DOE): I am obviously a biased advocate of GNEP, nuclear power, and anti-proliferation efforts. Now is the key time to begin appropriate GNEP consultation with tribes, possibly using the STGWG model. With regard to funding, DOE must compete with other federal agencies and priorities. DOE is working closely with appropriators to ensure adequate funding.
- Russell Jim (Yakama): Reprocessing has already created much waste.
Michael Richard (DOE): DOE is trying to figure out the technology to use, looking at the French model among others. We are at the beginning phases of scientific research.
- Brian Barry (Yakama): At the next meeting, can we get a briefing on waste produced from the GNEP process?
Willie Preacher (Shoshone-Bannock): Recently there was a presentation on GNEP at INL. DOE was presenting the British model. What happens if Yucca

does not open and storage of waste must happen on-site? What's going to happen to the long-term stewardship of the buildings and site as a whole?

Michael Richard (DOE): GNEP process will reduce the waste from spent nuclear fuel. Also, nuclear materials/waste already exist in abundance. DOE believes that Yucca Mountain must happen and that STGWG tribes and states should urge their Congressional delegations to support it and educate others on the importance of Yucca.

- Governor Mountain (San Ildefonso): Comment on the Tribal Summit--I understand the lack of productivity rationale from the Secretary. But, I am happy with the productive sessions yesterday and today. When you return to D.C., ask the Secretary to present to the Intergovernmental Meeting in the fall. Regarding NNSA, San Ildefonso understands and appreciates the national security mission. Our elders understand that LANL is not going away; therefore, it is essential to find common ground. Nuclear energy should not come at the expense of native peoples. Continue to keep DOE doors open, and continue to provide funding to San Ildefonso and the Los Alamos Site Office.
- Brooklyn Baptiste (Nez Perce): Thank you for your comments. Regarding the Summit, I support a mini-Summit and building up from there. Regarding nuclear power, we don't want to go back to 50 years ago. Also worried about funding trade-offs with GNEP now in the picture.
- Greg Kaufman (Jemez): Comment on the Office of Indian Energy and the DOE Tribal Energy Steering Committee.
Michael Richard (DOE): The Steering Committee is an internal DOE tool that has helped improve Department-wide communications on tribal energy issues. STGWG is seen as a model that other DOE programs should use for tribal interactions. Through the Steering Committee, I was educated on the Western Power Administration's active tribal programs.
- Greg Kaufman (Jemez): What will the process be with the new appointee to head the Office?
Michael Richard (DOE): Nothing is official yet, but now is the key time for STGWG input on composition and function of the Office. There is a lot of work ahead of us.
- Armand Minthorn (CTUIR): The Framework is finally done. How will tribes have input?
Michael Richard (DOE): Concurrence process did lead to a few changes. Also, one office has yet to sign on. DOE would like to see input from tribes to see if the Framework is working in practice.
Melissa Nielson (DOE): Built-in to the Framework is a review process every two years. DOE views this as a living document. DOE encourages STGWG tribes to engage with tribal points of contacts on the success of the Framework in the field.

Armand Minthorn (CTUIR): The review process should be every year, not every two years.

Brandt Petrasek (DOE): Tribal input was taken into account when drafting the Framework, as evidenced by the meeting in Baltimore. Copies will be distributed and DOE welcomes your comments. The completion of the Framework is thanks to the hard work of the tribes.

- Armand Minthorn (CTUIR): DOE should organize a meeting with tribes on the new Office and the new director.

Michael Richard (DOE): A formal announcement is forthcoming. DOE will consult with tribes.

- Armand Minthorn (CTUIR): You said the Secretary's decision on the Summit is a near-term interim decision.

Michael Richard (DOE): What constitutes a "Summit"? How can DOE elevate STGWG to a Summit? Is it already? What should the format be for the Summit? With the 2004 Summit viewed as unsuccessful, the ball is now back in STGWG's court so to say what a summit might look like.

Armand Minthorn (CTUIR): This is confusing. Can't change policy without tribal consultation. Why can't DOE say the word "consultation"? That's what government-to-government is all about. STGWG is a unique group that is organized to protect future generations and the environment. DOE has not engaged in proper consultations. We will work with DOE and exhaust all options. We take the Indian Policy very seriously.

Michael Richard (DOE): Progress has been made and DOE will continue to improve.

- Peter Chestnut (San Ildefonso): STGWG tribes stand ready to step-up on organizing an alternative to a full Summit given the Secretary's recent decision. San Ildefonso appreciates your comments and wishes to continue to work with DOE.

Michael Richard (DOE): Messages will be taken back to the Secretary.

- Bill Burke (CTUIR): Do you meet with the President and tribal issues-related staff?

Michael Richard (DOE): Once a month, we have a meeting at the White House.

Bill Burke (CTUIR): Who and how are people appointed to the Steering Committee?

Michael Richard (DOE): The Steering Committee is based on internal management decisions (it does not call for consultation with tribes, but allows for future better consultations).

Dr. Triay (DOE): We will go back to D.C. and make sure messages are heard at the highest levels. I will support Michael Richard in his efforts, acting as his "ground troops".

- Russell Jim (Yakama): Appreciative of Dr. Triay's dialogue. Concerned about GNEP.
Dr. Triay (DOE): We will engage the Office of Nuclear Energy back in D.C.
Michael Richard (DOE): We are at the beginning phase and will start proper consultation, perhaps using the STGWG model.
- Dr. Triay (DOE): This has been a productive meeting. Candid well-reasoned and valid thoughts have been presented. This will help me formulate my thoughts for future discussions at DOE Headquarters.

**TRANSPORTATION EXTERNAL COORDINATION WORKING GROUP: AN UPDATE ON
ACTIVITIES RELATED TO TRIBES AND STATES**

*Jay Jones, Office of Logistics Management, U.S. Department of Energy Office of Civilian
Radioactive Waste Management*

Willie Preacher, Director, Tribal/DOE Project, Shoshone-Bannock Tribes

*Neil Weber, Director, Department of Environmental and Cultural Preservation, Pueblo
de San Ildefonso*

Susan Coburn Hughs, Senior Policy Analyst, Oregon Department of Energy

- The Transportation External Coordination Working Group (TEC) is the main forum for discussions between all interested parties. The Tribal Topic Group met in Denver in April, and the full TEC-WG will meet in Kansas City in July.
- Willie Preacher provided a brief summary of the Tribal Topic Group workshop held in Denver in April. A good amount of tribal attendees, all ranging in experiences levels.
- Neil Weber provided a brief summary of the Yucca Mountain tour he took through TEC-WG. He stressed the importance of cultural resources.
- Susan Hughs reported on the TEC-WG state groups' letter to DOE requesting some improvements to the working group. DOE has been receptive to the letter, as evidenced by some changes made in the agenda for the Kansas City meeting.
- Jay Jones from the Office of Civilian and Radioactive Waste Management provided an update on the full-range of TEC-WG activities and offered to meet with STGWG tribes affected by transportation routes for radioactive waste shipments.

WRAP UP

- Participation at Intergovernmental Meeting: STGWW should consider the following factors before making their decision: a) past attendance rates; b) location; 3) change in format.
- Restructuring STGWW Committees: Should NRDA be combined with Long-term Stewardship? Integration and Disposition Committee?
- STGWW needs to continue to work with DOE to ensure that action items are being addressed and provide information to DOE where necessary.
- Letters from the Tribal Issues Committee: STGWW tribes need to regroup after the meeting to discuss next steps, including a letter writing campaign. The National Caucus of Native American State Legislators is looking to support STGWW tribes with joint letters or independent letters to DOE and Congress.
- STGWW would like to thank DOE for their participation and making the meeting a successful one.
- Melissa Nielson closed the meeting by saying that STGWW "has set a new standard".