

# National Conference of State Legislatures State and Tribal Government Working Group April 27 - 28, 1999 Richland, Washington

## [Meeting Notes](#)

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### Meeting Notes

These meeting notes are a summary of notes recorded on easel charts during sessions of the State and Tribal Government Working Group (STGWG) Meeting on April 27 - 28, 1999. The notes reflect key comments and discussions among the Working Group members and key questions/answers between Working Group members and presenters. The content of presentations is not summarized in this record.

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### April 27, 1999 Richland, Washington

#### *Session: Executive Session*

#### Introduction

- Tribal participation is encouraging
- Other tribes are encouraged to seek involvement
- STGWG has initiated a discussion of DOE Indian Policy
- STGWG is having an effect on DOE policy and actions
- New members are welcomed and encouraged to participate in discussions
- Overview of agenda
- Executive Meeting Agenda
  - Report back from Tribal Executive Session
  - Committee membership
  - STGWG website
  - Setting agendas
  - STGWG funding

#### DOE Information

- STGWG requested involvement of Tribes in Tribal cultural resource issues
  - Letter received from DOE - Involvement with sTGWG Committee
- STGWG requested update on DOE Indian policy
  - Letter received from DOE – process begun

## **Tribal Executive Meeting**

### Tribal Cultural Resources Policy

- DOE has new draft policy
- Tribes have submitted comments
- Comments from:
  - State of New Mexico
  - Shoshone-Bannock
  - Umatilla
  - San Ildefonso
- A Main Issue:
  - DOE focus on preservation of buildings from Manhattan Project / Cold War may inhibit cleanup of buildings.
- Another Issue:
  - Policy does not address Tribal cultural resources adequately
- Expected results from Wednesday discussion on Cultural Resources Policy:
  - Set next steps for / from DOE
  - STGWG consensus on how to address Policy
  - Get / propose timeframe for early closure on Policy

Q: Are all affected Tribes aware of Policy and dialog?

A: Maybe not – should get DOE to check out

- DOE corporate board has sent recommendations to Secretary – where does that leave STGWG and Tribes?
- Note: Need to keep all STGWG members aware of issues during discussion process

- Summaries of meetings and conference calls placed on website a good idea

Q: How are State Preservation offices involved?

A: Colorado: written agreement with SHPO (Note: No Tribal interest there now)

Q: Are states getting opportunity to comment on policy?

- A: STGWG should task its member states to review policy and comment.

## **Committee Membership**

- Stewardship
  - Add Max Power
- Transportation Planning
  - Add Lana Redeye, John Walker, Diana Yupe
- Nuclear Waste / Material Disposal
  - Chair / Co-chair: Determine during Wednesday session
  - Add Mike Taylor, Mike Wilson
- Tribal Cultural Resources
  - Add Lana Redeye, Mike Taylor
- Decontamination and Decommissioning
  - Add Mike Taylor, Tuss Taylor
- Executive Committee
  - No changes

Note: Confirm DOE Point of Contacts for all committees

## **STGWG Interactive Website**

- Initiated by DOE
- Need to give DOE feedback on whether it is useful tool or not
- Part of original idea:
  - Place to have conversation over time

- A key issue: Members must have easy access
- This approach to sharing has worked for other forums
- Idea: Post links to other important sites
- Idea: Post "what's new" for Tribes and sites
- Idea: Send broadcast e-mails about postings on Website – especially when important topics are to be addressed

Q: Are "chats" archived?

A: They should be

Q: Is there an ability to put documents on Web page for review?

- Note: Website is managed by Oak Ridge
- STGWG committees need to screen information and post on Website
- T. Winston will summarize and work issues with NCSL and DOE

### **How STGWG Plans for Meetings**

- There is a problem with finalizing agenda too late – too close to meeting date
- Need to get agenda / DOE participants identified earlier in process in discussions with committee chairs
- Idea: Get feel for agenda from each committee two months before meetings

### **STGWG Funding**

- STGWG is funded to 7/1/99
- Funding request submitted for next period

Q: Should longer funding cycle be pursued?

A: STGWG will request longer funding cycle

### **Nevada Situation**

- New Governor
  - Opposed to Yucca Mountain
  - Opposed to interim storage
- Congress has cut off almost all funding for State oversight
- Nominee for DOE Assistant-Secretary not confirmed

- May be May 1999

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**Session: Full Session**

**Introduction**

- Welcome and Invocation
  - Armand Minthorn, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)
- Welcome
  - James C. Hall, DOE Hanford Site
  - Martha Crosland, DOE-EM
- Participant introductions
- Opening remarks
  - Flip charts will be basis for meeting summary

**Summary of Executive Session**

- Tribal executive session – to be discussed on Wednesday
- STGWWG membership updated
- Request: DOE confirm committee Point of Contacts
- STGWWG Website
  - Site is worthwhile
  - STGWWG will work with NCSL to make effective use of site
- Funding for STGWWG
  - A concern of the group
  - Need continuity and dependable funding
- Armand Minthorn
  - Funding – historical pressure from Tribes to revitalize STGWWG
  - Important that STGWWG continue its mission and vitality
- Need long-term funding commitment from DOE

## DOE Update

Moderator: T. Winston, Ohio Environmental Protection Agency

- DOE-EM Budget for Cleanup
  - Briefing by M. Crosland, DOE-EM
  - Summary in packet
  - Budget request includes stable funding
  - STGWWG funding continuing within EM budget
  - No intention of cutbacks
  - Intend to keep STGWWG going and vital
  - DOE budget home page – Stakeholder involvement on STGWWG home page
- Energy Summit
  - Meeting with governors in 2/99 to discuss
  - Meeting on 5/7/99 to discuss
  - More discussion later in meeting
  - Comment: Summit should involve Tribes during fleshing out
  - Process / format still being decided

## WIPP Shipments

- Moderator: T. Winston, Ohio Environmental Protection Agency
- Briefing by Chris Wentz, New Mexico Energy, Minerals, and Natural Resources Department
- See transparencies for presentation

Q: Will DOE authorize each shipment to WIPP?

A: No, each waste stream is authorized

Q: What is New Mexico's role in authorization?

A: When permit is in place, New Mexico audits will be similar to EPA

Q: Where is waste characterization for Hanford (status)?

A: Request DOE to find out and report

Comment: Tribes need to be prepared for emergency response

- Waste characterization is one of the most difficult and expensive steps in process
- At least 1 year before any shipment from Hanford
- Hanford in top 6 sites for future shipments
- Some barrels at Hanford have already been characterized

- Limited number of TRUPAK trucks will limit number of shipments until more available – shipping will then ramp up
- Remote-handled waste is 4% of the volume, 50% of the radioactivity
- 2003 is the earliest for shipment of remote-handled waste

Q: Need to show where safe havens are along transport routes

- Tribes have problems with some locations

A: Safe havens are documented in WIPP transportation plan and implementation guide

- Also includes "audience" criteria
- Plan includes procedure for contacting local governments

Q: Request response from DOE regarding parking sites

Q: How are Tribes chosen for notification?

A:

- Tribes with sites
- Tribes along transportation route

Q: Yakama nation should be included. Is it?

A: Will pass request to DOE

Q: Concern raised regarding States' rights, Tribal rights, and Treaty compliance

## **External Regulation of DOE**

- Moderator: T. Winston, Ohio Environmental Protection Agency
- Briefing by Joe Fitzgerald, DOE
- Recent developments
- Notices to Congress regarding pilot studies
- Executive summaries available
- Lawrence Berkeley
  - Issue: Who is licensee (Federal or State)
  - NRC and OSHA have concerns regarding allowing State to regulate a federal agency
  - States of California and Tennessee are fully capable of doing job of regulation
  - Debate continues and will continue in Congress

- 2/99 Letter
  - Notified Congress that DOE not ready to transfer non-defense laboratories to external regulation
  - NRC process does not fit DOE – may lead to costs that do not improve environment
- 3/99 Letter
  - Transmitted results from pilot studies
    - Savannah River
    - Oak Ridge
    - Lawrence Berkeley
  - Promises flexibility in regulation
  - Specificity needs to be added

Q: Self-regulation doesn't work – flexibility produces non-regulation

A: Flexibility desired from NRC approach – want risk-based instead of performance-based approach

Q: Will States and Tribes be at table on this issue?

A: Yes, but involvement didn't resolve sovereignty question in pilots.

Response: States and Tribes want to provide input before decisions are made

Q: The issue of State / Federal relationship was worked out successfully in NRC process – can allow federal government to be regulator and effectively involve States / Tribes

A: Some issues are still there for DOE that haven't been resolved by NRC

Q: In South Carolina, why not a radiological facility for pilot instead of pilot conducted at Savannah River Site?

A: DOE recognized that a more complex site should have been chosen. Did learn at SRS that individual sites / facilities / programs cannot be isolated for external regulation – must regulate all. Also learned that short-lived projects not appropriate for NRC regulations – only long-lived operations

## **Decommissioning and Decontamination**

- Moderator: S. Tarlton, Colorado Department of Public Health and Environment
- Survey
- Path Forward
- See transparencies for presentation

Q: How will release limits be determined?

A: Not yet determined, this is an opportunity for STGWW input Comment: Dose / risk assessment method should be agreed on and should include dose methods which consider Tribal cultures

Comment: State of Washington is concerned with dose calculations for Tribal cultures. Risk evaluations have been conducted.

Comment: State of Washington struggling with disconnect between risk- and dose-based methods

Comment: There should be more attention at Headquarter level on policy for incorporating Tribal input and cultural factors in risk / dose calculations

Idea: STGWW committee should look at NRC / other models and methods to incorporate Tribal lifestyles / culture

Comment: Keystone decommissioning dialog – dialog on which dose standards should be applied. Little discussion of minority issues.

Comment: Tribal dose calculations should be routinely included in analysis (not just if requested). Standard methodology / guidance should be provided.

- DOE Response to Survey
  - Good survey of approaches to Decontamination and Decommissioning across complex
  - STGWW recommendation on treatment of Tribal cultures in dose / risk assessment
  - DOE needs to address release criteria
  - Information on re-industrialization is useful
  
- Next Steps for Committee
  - Get clarification on some answers
  - Distribute filled-out questionnaires to all members to stimulate dialog – and get to people in State / Tribe for information
  - Follow up on sampling methodology
  - Conduct survey on "the role of the regulator"
  - Examine release criteria more closely, especially with respect to Tribal impacts
  - Conduct survey of D&D successes / accomplishments
  - Should survey DOE (sites) as well as States / Tribes
  - Should survey regarding soil concentration-based clean up criteria
  - What can we learn from Pinellas, Florida experience?
  - Note: Cooperative group for decontamination of DOE-Chicago facilities

has dealt successfully with these issues – should check them out – may be standard for DOE in future

Comment: Oak Ridge is involved in all 3 kinds of D&D. Has placed all within 1 organization to avoid disconnects. Approach is working well.

Comment: Should get specific details on D&D statistics (e.g., what specific facilities)

Comment: Should include cultural resources information in survey

Comment: DOE should place emphasis on Tribal and historical significance in making D&D decisions

Comment: Important to balance historical preservation with risk reduction

Comment: Important to prioritize Tribal cultural resources equally with historical resources

Comment: Committee should sort out competing objectives - among DOE and regulators

## **Stewardship**

- Moderator: S. Tarlton, Colorado Department of Public Health and Environment
- Briefing by Steve Livingstone, DOE
- Formal response at DOE-HQ front office – should be out soon

DOE long-term stewardship activities

- Steve Livingstone, DOE
- See transparencies for presentation
- See transparencies for DOE responses to STGWG recommendations

Q: Who is on Corporate Board?

A: PSO level for all major programs in DOE

Q: Who is protecting cultural resources?

A: Corporate Board has responsibility for designing how this will be ensured

Comment: Should not say "some sites will never be cleaned up."

Response: Path to Closure document reduces cost of sites and reduces risk, but does not complete cleanup at all sites

Comment: Stewardship should include "cleanup" and cleanup should include "stewardship"

Q: Schedule for results from Corporate Board (guidance)?

A: Initial guidance by end of CY 99

Note: STGWWG committee should obtain and review Weldon Springs information

Comment: Until guidance is in place, States and Tribes should only accept stewardship commitments if implementation plan is included

Comment: Tribes will help implement stewardship plans if plans meet treaty commitments

Comment: Paducah Land Use Control Assurance Plan submitted to committee for review

Note: NOI on National Study by 7/1/99

Comment: Important to provide broad and early involvement

Comment: Important to involve broad community in developing Public Involvement Plan

- Next Steps for STGWWG
  - Review DOE stewardship document for Weldon springs
  - Review Paducah document
  - Review PBS's for all sites – contrast and compare
  - Scoping for national study
  - Public involvement planning for national study
  - Participation in national study
  - Review ELI / ECA product
  - Participate with ELI / ECA
  - Use part of (next?) STGWWG meeting for input to Corporate Board
  - Link from Tribal cultural resources to stewardship
  - Examine guidance for stewardship from statutes

Note: "Local governments" should be included in dialog

- Tribes should be included in development of plan, not just comment on plan
- State / Tribe consensus from STGWWG is an important accomplishment – should present our process and produce as a model

**NGA – FFCA Task Force**

- Moderators: Tom Winston, Ohio Environmental Protection Agency, Ann Beauchesne, National Governors Association
- Briefing by Tom Winston, Ohio Environmental Protection Agency
- See presentation transparencies (hard copies can be requested from NCSL)
- Briefing by Ann Beauchesne, National Governors Association
  
- Technical review of PEIS
  
- STGWG & NGA working together
  - ECA, NAG, EMAB, STGWG, & NGA should all coordinate
    - Links to web pages?
    - Attend each others' meetings
  
  - Through coordination, can send stronger message to DOE
  
- Secretary's Summit
  - Governor's representatives meeting with DOE in May to scope out summit
  - Secretary wants big meeting for top-level discussion
  - A number of options being considered from small to very large
  - DOE trying to develop approach to reach success
  - Have started small – 8 governors and secretary (not the Summit)
  - Another idea – have continuing dialog with other governments – state and local
  - Tribal dialog – through STGWG by elevating discussion in STGWG?
  - Secretary expects to see a "summit" soon
  - STGWG can help define
  - A possible vision: A number of high-level forums with networking and access to DOE-HQ

Q: Priority on RODs for LLW and MLLW?

A: Meetings with governors will help – RODs will probably move faster than Summit

Comment: Shoshone-Bannock: Transportation is a problem

Comment: It is a problem that the Secretary is inviting governors and not Tribes to meet with him on issues that affect Tribes

Q: Is it Secretary's policy to address Tribal issues only at staff level?

A: Secretary has Native American staff members advising him

A: Secretary intends to have government-to-government dialog with Tribes  
A: DOE will have separate summit with Tribes  
A: Good news – STGWG can get involved early

Q What issues does Secretary wish to address at Summit?

A: Not stated

- May 7 meeting
  - Process discussion
- Group of 8 doesn't include all interested governors

Q: A number of groups have provided input to DOE. Any summary?

A: Nothing formal, individual group inputs being addressed

- Common themes become apparent

Comment: Many comments / inputs have been provided to DOE many times already

Comment: Treaties represent obligations, not considerations. Important to understand what "treaty rights" really means

Comment: Essential to fully involve indigenous people in process

Comment: Planning group for Summit should work through STGWG to include Tribal perspectives

- These issues are DOE's problem – DOE must make decisions
- Interface with NGA: Important to address and seek opportunities

Q: Is secretary going to invite Tribal leaders to Summit?

A: Either separate Summit or as part of NGA Summit

**April 27, 1999**

**Umatilla INDIAN Reservation**

**Session: Full Session continued**

- Welcome and Invocation
  - Armand Minthorn, CTUIR

**Tribal Cultural Resources**

- Moderator: J. R. Wilkinson, CTUIR

#### DOE Corporate Board on Historic Preservation

- Briefing: Andrew Wallo, DOE
- Draft policy drafted prior to Corporate Board
- DOE-EH creates guidance
- Sites / offices implement program
- Corporate Board established to address specific issues
  - Lack of sufficient Headquarters effort
  - Preservation of Manhattan Project / Cold War sites
- Results of initial Corporate Board review
  - Program working at sites
  - Sometimes cultural resources needs higher priority
  - More support for field needed at Headquarters
- Direction provided for a DOE-wide cultural resources plan
- Intended to provide cohesive, long-term program

### **TRIBAL AND STATE COMMENTS ON DOE DRAFT CULTURAL RESOURCE MANAGEMENT POLICY**

#### **Shoshone–Bannock**

- "Cultural Resources" is more than Archaeological Sites
  - Culture
  - Traditions
  - Jobs
  - Other
- Policy fails to address how tribes will assist DOE in managing Tribal Cultural Resources
- Policy may undermine current agreements and relationships between Shoshone–Bannock Tribe and DOE-ID
- DOE–HQ should meet with Shoshone–Bannock Tribe to gain insight into existing relationships circumstances and procedures
- The Draft Policy will impact DOE American Indian Policy

- DOE recognizes treaty protected Tribal interests outside reservation boundaries
- DOE recognizes a Trust Relationship between Federal Government and Tribes through treaties and Indian Law
- DOE commits to consultation with Tribes re Cultural Resources
- DOE commits to involve Field Office in consultations regarding cultural/religious concerns
  - Policy will interfere with local agreements
- DOE commits to seek ways to remove impediments to interaction – policy is such an impediment
- DOE commits to incorporate American Indian Policy into activities – DRAFT Policy is not consistent with this
- Draft Policy implies priority for historical over Tribal Cultural Resources. Should be parity between the two resource groups
- There was insufficient time to prepare comments on Draft Policy
- Draft Policy does not consider National Historic Preservation Act
- Tribe still waiting for meeting with Secretary

### **Pueblo de San Ildefonso**

- Good that Cultural Resources addressed at Secretary level
- A large number of Tribal cultural sites identified at Los Alamos
- Waste Disposal EIS for LANL does not adequately consider protection of Tribal Cultural Resources
- Recent discussions of alternative approaches are productive
- Policy focuses too strongly on Historic Properties – Should focus on ALL Cultural Resources
- Policy should list and comply with ALL applicable laws
- Policy should recognize potential offsite impacts
- Policy should be binding on DOE contractors

- Policy should flow down to all levels of DOE operations with "teeth"
- Sites should be directed to respond positively to Policy

### **New Mexico Environment Department**

- DOE is commended for soliciting comments at this early stage
- Policy does not adequately address potential impacts to Offsite Cultural Resources
- Policy does not place authority for determining "impacts" in hands of Cultural Resources owner
- Policy should be comprehensive but only restates current policy and statutes
- Should be broader and go beyond basic requirements

### **CTUIR**

- Policy should provide real priorities for cultural resources, including realistic commitments for/and surveys and inclusion of all laws
- Policy should recognize that each tribe needs individualized treatment
- Corporate Board has not adequately considered needs beyond Historic Resources
- Corporate Board has not recognized urgency for taking action, providing funding, and complying with law
- See comment summary Matrix

### **Response from DOE**

- Getting more information from DOE to Tribes and States will help understanding
- Draft Policy is very early
- Intention is to raise Cultural Resources to Secretariat level
- Tribes may take as long as desired to respond to draft
- Indian Policy is in full force and not subordinated to Draft Policy

- DOE will include other sections of Historical Preservation Act and other laws
- DOE will revise Draft to reflect STGWG and Tribal Comments
- Time Frame for next draft: Next few weeks (3 or 4).
- DOE will move guidance out of broad policy statements
- Is existing guidance (1995) adequate in some areas?
- Re Government – to – Government Relationships, the DOE process is:
  - Working group develops Draft
  - Technical group further develops
  - Full review by all Governments Involved
- The process for the revised Policy is now in first steps.

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## **COMMENTS FROM STGWG MEMBERS**

- Draft Policy does not address / reflect sacredness and humanity of many Tribal Cultural Resources
- There is a lack of coordination among laws and regulations re Cultural Resources
- Essential that Tribal comments really be considered and reflected in Policy Revision
- For Tribes, Cultural Resources are holistic and much more than archaeological sites
- Cultural Resources a broad issue for tribes and a high priority
- States should review State laws / policies on Cultural Resources
- Need consistent participation from DOE in STGWG Cultural Resources Dialog
- Consultation Process should never end and should be top-down instead of bottom-up
- Role of Corporate Board should be clarified

- A time frame / schedule for setting / implementing policy should be set
- Urgency is needed
- STGWG should help define concept of "Consultation" for DOE
- The policy should talk about "Culture as a Resource" instead of just "Cultural Resources"
- Tribal and State rights should not be "considered", they should be "RESPECTED"
- Corporate Board should incorporate all of Historic Preservation Act into the Policy
- Cultural Resource Protection should be included in Stewardship Policy and Stewardship Plans
- Appreciate DOE's efforts to elevate discussion of Cultural Resources
- For next draft, seek help from experts in Crafting - States, Facilities, Tribes
- Members of Corporate Board should be qualified to evaluate these issues and make recommendations

## **Nuclear Waste and Materials Disposition**

- Moderator: Ann Dold, ID
- Introduction
  - Ann Dold
- An issue: Proposed DOE rule on radiological waste management
  - 5820-2A is current DOE waste management order
  - O435.1 – Proposed order to replace 5820.2A

Applies to waste:

- TRU
- High-Level
- Low-Level
- Mixed Low-Level
- Not much consistency in definition of high-level waste

- High-level waste defined by its source not its activity level
- NRC at one time proposed risk- or activity-based definition
- So many comments received that NRC backed off
  
- Issue: Make sure that you are selecting the right materials for disposal as high-level waste
- NRC has redefined some high-level waste to be "incidental waste"
- Definition / responsibility for high-level / incidental waste very important
- DOE has created commission to address issue of incidental waste
- O435.1 is intended to clarify these issues
  
- DOE O435.1
- Briefing: Ken Picha, DOE
  
- Second or third effort to revise Order 5820.2A
- Conducted at DNFSB request
- Draft order provides new definition for HLW
  - Allows better management for D&D
  - Codifies current practices in waste management
  
- See transparencies for overview presentation on comments on the draft
- Draft order definition of HLW
  - DOE, not NRC decides what is HLW
  
- NRC is okay with this if it is consulted
- Draft order does not eliminate source based definition, but allows exclusion / inclusion by citation
- Citation process conducted by field managers
- New approach
  - Separate out "bad actors" – geological repository
  - Define all others as "incidental waste" – no geological repository
  
- Issue: Some incidental waste will be hotter than class C LLW and could be disposed of in near-surface landfills
  - Is this okay?
  
- Potential issues for RCRA agreements states – delisting
- Another issue: Lack of external comment on proposed order
- Another issue: No NEPA process for proposed order
- Another issue: Should greater than class C waste be disposed of in NRC-licensed facility?

## Questions and Answers

- Problems with definition and characterization should be a show-stopper for Hanford Waste Tanks
- NRC still calls greater than class C waste LLW
- Greater than class C waste may not be disposed at commercial facilities but must be disposed at DOE facilities – is not orphan category
- DOE must be licensed by NRC

Q: Path for remote-handled greater than class C waste?  
A: DOE looking for disposal options (not as regular LLW)

- NEPA will be performed

Q: Are these wastes covered in WMPEIS or RODs?  
A: Will check on this

Concern: Could unintended waste be disposed at a site (especially near-surface repositories)?

Q: What commercial facilities considered for LLW?  
A:

- Envirocare
- Barnwell

But policy states a preference for DOE disposal at its own sites

Q: What about delisting of treated LLW?  
A: Waste must be delisted from RCRA to be eligible for Yucca Mountain

- Concern: Will DOE have too much flexibility in delisting?

Q: Is treated LLW a mixed waste?  
A: Yes

Conclusion – would be covered under RCRA unless DOE can show waste is not mixed

Recommendation:

- STGWG evaluate this issue more closely and make recommendation to DOE
- Fits within Committee Charter, but be sure that rest of charter attended to

## **Wrap-up / Summary / Path Forward**

- Co-chair of Waste / Materials Disposition Committee to be decided by the committee
- Next meeting: Idaho
- Spring 2000 meeting in Oak Ridge

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## **Key Outcomes**

The following key outcomes from the April, 1999 STGWG meeting. The findings were submitted to DOE on April 28, 1999, immediately following adjournment of the meeting.

### **Membership**

- Tribal participation in STGWG has substantially increased. This has significantly improved the group's diversity and effectiveness in addressing issues important to both tribes and states.

### **The DOE Summit**

- Tribes and a broader representation of states should be involved in planning for the potential DOE Summit.
- Tribes should be directly represented in the potential DOE Summit or an equivalent Summit should be held for Tribes.

### **WIPP Transportation**

- Tribal emergency preparedness for WIPP shipments across tribal lands is not yet adequate. It must be a high priority that Tribal / local emergency response capabilities and training be completed prior to shipping across or near tribal lands.

### **External Regulation**

- DOE should directly involve states and tribes in evaluating its pilot studies and developing its recommendations to Congress.

### **Decontamination and Decommissioning**

- The Decommissioning Committee has completed the first phase of the decommissioning survey. Responses indicate the need for follow-up to the survey to clarify answers and obtain additional detail.

- Dose and risk assessment methodologies used to establish release criteria and cleanup standards should accurately consider dose pathways important to Tribal cultures. DOE policy and guidance on dose and risk assessment should institutionalize evaluation of Tribal cultures.
- It is important to balance preservation of historical sites with risk reduction in choosing facilities for deconstruction.

### **Stewardship**

- The State and Tribal Government Working Group has completed and submitted its report on Stewardship, "Closure for the Seventh Generation." DOE responded favorably to the recommendations and will provide a written response soon.
- States and tribes need to submit a document to DOE showing the broad consensus they share on stewardship issues.
- Stewardship commitments and agreements should always be accompanied by defined Stewardship Implementation Plans.
- States and Tribes should be directly involved in creating the draft Long Term Stewardship Plan, not just commenting on it.
- DOE should involve states and Tribes in the development of its Public Involvement Plan for Long Term Stewardship, and should focus on early and broad involvement by the community in stewardship decisions.

### **STGWG/NGA Cooperation**

- All DOE national advisory groups should actively coordinate their efforts to increase effectiveness of advice to DOE and avoid unproductive duplication of effort.

### **Draft DOE Cultural Resources Policy**

- It is important and commendable that DOE has elevated the discussion of cultural resources and cultural resource policy to the Secretarial level.
- It is a very positive step that DOE has solicited input to the policy development process at a very early stage. Comments have been submitted from three tribes and one state and a summary matrix of comments prepared. DOE has committed to provide a second draft in 3 – 4 weeks.

- DOE should seek help from local experts – state governments, tribal governments, and local governments in creating the next draft of the policy.
- There is too great an emphasis on historic resources in the policy and should be broadened to include all cultural resources.
- The policy should address how tribes and states will participate with DOE in co-managing cultural resources.
- The wording of the policy should reflect the sacredness and humanity of many cultural resources.
- The policy should recognize and address potential impacts from DOE sites and operations on offsite cultural resources.
- Tribal and states rights should be "respected," not just "considered," by DOE.
- Cultural resource protection should be included in Stewardship Policies and Stewardship Plans.

### **Nuclear Waste and Materials Disposition**

- The use of a source-based definition for High Level Radioactive Waste produces difficulties for activity-, dose-, and risk-based decisions on cleanup, treatment, storage, and disposal.
- There is concern about what involvement states and tribes will have in addressing the definition of High Level Waste.
- There is concern that the public comment process for Draft DOE Order 435.1 did not produce enough awareness of this issue or enough opportunity to comment for states and tribes.
- The proposed Order changes the definition of High Level Waste and introduces a definition and process for waste incidental to reprocessing, without evaluation under the National Environmental Policy Act.
- The STGWG Waste and Materials Disposition Committee will address these and related issues in relation to Draft DOE Order 435.1 and the Waste Management Programmatic Environmental Impact Statement.