

**INTERGOVERNMENTAL MEETING WITH THE  
U.S. DEPARTMENT OF ENERGY  
NOVEMBER 29-30, 2006  
EXECUTIVE SUMMARY**

On November 29-30, 2006, representatives of five Intergovernmental Groups—the National Governors Association Center for Best Practices' (NGA) Federal Facilities Task Force, the Energy Communities Alliance (ECA), the State & Tribal Government Working Group (STGWG), the National Association of Attorneys General (NAAG), and the Environmental Council of the States (ECOS)—convened for their fourth annual joint meeting with the U.S. Department of Energy (DOE) at the Key Bridge Marriott Hotel in Rosslyn, Virginia. This joint meeting is designed to help DOE officials communicate with all of its key intergovernmental groups at once, and vice versa, as well as an opportunity for the individual groups to communicate and learn from each other. Key topics for this meeting included communication, performance-based project management, waste management, long-term stewardship (LTS), DOE's budget, and Natural Resource Damage Assessment (NRDA). Some presentations and materials are available online, as noted below.

**Tutorial on EM's Performance-Based Project Management**

**Jay Rhoderick, Director, Office of Performance Assessment, DOE-EM**

PowerPoint presentation available [online](#).

- Jay Rhoderick outlined the use of performance-based project management in DOE-EM. He reviewed the five-stage "critical decision" process used in DOE's Acquisition Management System, summarized the earned value management system, and provided an update on recent changes in DOE Order 413.3A on project management. He said EM is now completely projectized into 87 projects. He emphasized that DOE-EM has experienced a significant culture shift towards more rigorous project management.
- A participant expressed concern that the performance-based project management emphasis on schedule has limited DOE-EM's ability to take into account new challenges and issues. Mr. Rhoderick answered by saying that project management requires that risks be fleshed out and identified, after which it is possible to change baselines.
- Mr. Rhoderick told meeting participants that DOE-EM's monthly reports on project performance may not be available for external review because they include information on contractor performance.
- A participant asked Mr. Rhoderick how DOE-EM manages project performance at NNSA sites. Mr. Rhoderick responded that NNSA is independent and DOE-EM does not have oversight of NNSA.

**State of EM: James Rispoli, Assistant Secretary of Energy, Office of EM**

- In introductory remarks, Tom Winston of the Ohio Environmental Protection Agency provided an overview of the five Groups' issues for Assistant Secretary Rispoli. The issues identified were: budget and the long-term funding future, decision making and consultation, the transportation implications of the National Waste Disposition Strategy, LTS, and NRDA. In addition, the groups noted their interest in the Global Nuclear Energy Partnership (GNEP) and developments regarding Yucca Mountain to understand how these might affect DOE-EM.
- Assistant Secretary Rispoli said cleanup of the Nuclear Weapons Complex is a huge and very challenging endeavor. He noted cleanup is characterized by political issues and successes are often not recognized. Mr. Rispoli highlighted some key successes including the closure of three sites in Ohio, closure of the T Area of Savannah River Site, and the beginning of cleanup of the high level waste tanks in Idaho.
- Mr. Rispoli outlined his three priorities saying 1) safety is always first, 2) DOE-EM must be on schedule/on cost, and 3) DOE-EM must be a high performing organization, and continue to recruit young talent.

- Mr. Rispoli said DOE-EM has learned from experience, recognizes it must do a better job managing risk, and is incorporating safety into initial planning stages. He said no schedule or milestone is worth sacrificing safety, and no plants will be built if they are not safe.
- Mr. Rispoli announced that last year's commitment to develop a framework to interact with tribes is nearing completion, and is expected to be signed shortly. The wait is due to interest from the Office of Science, Office of Nuclear Engineering, and NNSA who are reviewing it.
- Mr. Rispoli acknowledged the issues raised by the five groups and said LTS is a subject that was not in his sights at all until this week, and that he will work on it.
- In closing, Mr. Rispoli said everyone must communicate and the bulk of communication should happen at the site level. He said effective communication does not mean everyone agrees, but rather that everyone understands each other, and is seeking win-win solutions.
- A participant commended Mr. Rispoli for his work regarding the tribal framework.
- A participant thanked Mr. Rispoli for recognizing LTS, and asked what is being done to improve the contract awarding process and its impact on local communities. Mr. Rispoli responded that he would like DOE-EM to be where the Department of Defense is in terms of transparency of the contracting process, and is working on getting to that point.
- In terms of small business contracts, Mr. Rispoli said the important thing is to provide an opportunity for small businesses to perform well, and incorporate lessons learned into future actions.
- A participant encouraged Mr. Rispoli to allow external feedback, and ensure external review.

#### **Update on Yucca Mountain Legislation**

**Deidra Ciriello, Deputy Assistant Secretary for Environment and Science, Congressional Intergovernmental Affairs, US DOE**

- Deidra Ciriello gave a PowerPoint presentation on the proposed Yucca Mountain Legislation stressing that the project is not dead, and DOE will submit an application to the Nuclear Regulatory Commission on time in June 2008 with or without the legislation. However, she said the current projected opening date of 2017 does assume passage of the legislation.
- Ms. Ciriello emphasized that GNEP does not eliminate the need for Yucca Mountain.
- Ms. Ciriello said in order for the project to move forward, there are three critical issues the legislation must address:
  1. The land must be withdrawn so DOE has control of the land.
  2. Funding reform is needed.
  3. DOE needs to be able to lift the 70,000 ton capacity cap on Yucca Mountain.
- Participants asked why the transportation route is being changed. Ms. Ciriello said it's not being changed, but new information has been received and alternatives have to be considered.

#### **Panel: Waste Disposition Strategy**

**Moderator: Jerry Boese**

**Panelists: Frank Marcinowski, Deputy Assistant Secretary for Regulatory Compliance, DOE-EM**

**Christine Gelles, Acting Director, Office of Disposal Operations, DOE-EM**

**Doug Tonkay, Engineer, Office of Disposal Operations, DOE-EM**

A PowerPoint presentation (covering all three panelists' talks) is available [online](#).

- Frank Marcinowski said DOE-EM is prioritizing safe, compliant operations, and ensuring a disposition path for all EM waste and materials.
- He announced that DOE-EM will no longer "go away" after cleanup of the Nuclear Weapons Complex is completed, but EM is now seen as having an enduring mission.
- Christine Gelles provided an overview on waste disposition, noting her office's responsibilities have been expanded to include transuranic waste. She said DOE-EM continues to focus on improving guidance for life-cycle cost analysis and development of the national disposition system tools and documents.

- Ms. Gelles said the national strategy focuses on project management tools that provide discipline, formality, and structure, and it documents complex-level scope for each waste type.
- Doug Tonkay provided an overview of waste disposition planning, data collection, and the Waste Information Management System (WIMS). He said WIMS is up and running and available to everyone<sup>1</sup>. WIMS currently contains FY2006 data, but the data, as well as the website's capabilities, are currently being updated.
- Panelists indicated DOE-EM is working with NNSA to define waste management requirements at NNSA sites.
- A participant said there is a need to convey to local communities that a lot more waste will stay onsite than many people currently anticipate. In response, panelists said that while on-site waste disposition cells have been expanded, no significant strategic changes have been made.
- Panelists said states' comments on the advance draft of the National Waste Disposition Strategy (NDS) were useful, and the NDS is being considered a living document that is updated annually.
- A participant expressed concern that Hanford remote-handled TRU waste will not be ready for shipment to WIPP before capacity is lost. Panelists acknowledged that the participant's observation was correct, and said it is a logistical issue that DOE is trying to address. DOE is working to accelerate shipment of remote-handled TRU waste.
- In response to a question, panelists said that after the mixed low level waste disposal site at the Nevada Test Site closes, Hanford is expected to be the disposal site for mixed low level waste.

**Luncheon Presentation: General Perceptions of Cleanup of the Nuclear Weapons Complex**  
**Ed Helminski, President and Publisher, Exchange Monitor Publications and Forums**

- Ed Helminski observed that the new Democratic Congress will not likely stall nuclear activities. He believes the new Congress will likely be more sensitive to environmental issues such as global warming, but he does not anticipate any major changes affecting cleanup of the nuclear weapons complex. He said the new Senate Majority Leader, Senator Reid (D-NV), is generally a supporter of nuclear activities other than Yucca Mountain.
- Mr. Helminski believes DOE needs to do more to build confidence in their nuclear programs, and the nuclear industry needs to be more inclined to standardize reactor design.

**DOE Budget Overview**

**Mark Frei, Deputy Assistant Secretary, Office of Program, Planning and Budget, DOE-EM**  
 PowerPoint presentation available [online](#).

- Mark Frei explained that DOE funding for FY 2007 is under a two-month continuing resolution. Funding through the next year is unclear.
- Mr. Frei outlined budget priorities as follows: safety, pensions, technical work scope, and fully establishing the disposition capabilities for liquid tank waste.
- Mr. Frei indicated there is a need for all parties to recognize that there is a balance between DOE-EM priorities and other national/agency priorities.
- A participant asked how unfunded liabilities fit into out-year planning projections. Mr. Frei said DOE-EM is actively working agency-wide to determine what exactly the funding needs related to unfunded liabilities are, and how they fit into the overall budget.
- A participant asked about the effects of a year-long continuing resolution, and Mr. Frei said some sites would actually receive more money than proposed in the President's FY2007 budget.

**Remedy Decision Making to Long Term Stewardship**

**Moderator: David Geiser, Deputy Director, Office of Legacy Management, US DOE**

**Panelists: Ralph Skinner, General Engineer, DOE-Oak Ridge**

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<sup>1</sup> WIMS is currently available on the web at <http://wims.arc.fiu.edu/wims/>.

**David Abelson, Executive Director, Rocky Flats Stewardship Council**

**Monica McEaddy, Chemical Engineer, US EPA Federal Facilities Restoration and Reuse Office**

PowerPoint presentations are available [online](#).

- Dave Geiser urged meeting participants to comment on the Office of Legacy Management Strategic Plan.
- Ralph Skinner gave a presentation on the Oak Ridge cleanup, public involvement, and LTS. He said the primary lesson learned at Oak Ridge is to involve the public “early and often” in the decision making process.
- Monica McEaddy said EPA does not currently have an official policy on LTS, but wants to work with state, local, and tribal interests to develop one. Ms. McEaddy emphasized that community buy-in and a clear vision of a site's potential end use are key lessons learned from cleaning up CERCLA sites.
- David Abelson discussed stakeholder involvement in the cleanup of Rocky Flats. He said the absence of a formal decision-making role for local governments should not diminish local standing. Mr. Abelson said local governments at Rocky Flats were able to position themselves to be part of the cleanup solution by coming to a common understanding with DOE that information would be shared.
- Mr. Abelson identified balancing DOE objectives with local approaches and goals as one of the biggest challenges of the cleanup process. He said a key difficulty to be addressed is DOE-EM’s lack of clarity on its role in incorporating stewardship into cleanup.
- Panelists observed that cleanup involves evaluating success on a case-by-case basis, as opposed to implementing a complex-wide policy, and incorporating community values. Dave Geiser added that cleanup decisions are not generally made unilaterally – for example, the Mound cleanup decision (excluding the landfill) was made with US EPA, Ohio EPA, and DOE.
- When panelists were asked what they would recommend to DOE, David Abelson made the following suggestions: DOE should form an interdisciplinary team in headquarters to better forecast and resolve LTS issues; DOE-LM personnel should be assigned to sites before closure, and a stronger connection is needed between DOE-EM and LM. Monica McEaddy said performance measures for LTS are absent and may be needed. Dave Geiser explained there is work going on in EM about LTS, but it may not be well known outside of the group working on it.

**Natural Resource Damage Assessment**

**Moderator: Paula Cotter, Environment Counsel, National Association of Attorneys General**

**Panelists: Brian Hembacher, Assistant Attorney General, Office of the Attorney General of California \**

**Vicky Peters, Senior Assistant Attorney General, Office of the Attorney General of Colorado**

PowerPoint presentation available [online](#).

- Paula Cotter introduced the panel and talked about the NAAG/DOE-NRD Task Force which has created white papers available on the NAAG website.<sup>2</sup> She said that while it is often not possible to restore land to its original status, NRD work can facilitate replacement restoration and acquisition.
- Brian Hembacher distributed a paper entitled, “Promoting Integrated Cooperative Natural Resource Damage Assessments at Department of Energy CERCLA Sites, “ and said cooperative assessment, as opposed to litigation, is the best way to manage NRD issues. Some of the benefits of cooperative assessment Mr. Hembacher noted were: cost savings, data sharing, peer review, public relations benefits, and earlier resolutions. He also recommended that the various agencies involved come up with an MOU, that a training group of knowledgeable people be created to instruct involved entities, and a facilitator should be used.
- Vicky Peters discussed a white paper on restoration-based assessments of groundwater NRD claims. She also suggested that in the future, involved entities should work together to institutionalize a cooperative process for performing these kinds of assessments.
- Panelists told participants that although local governments are not automatically involved in the NRDA process, states can designate local governments to act as trustees.

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<sup>2</sup> NAAG’s website can be found at [www.naag.org](http://www.naag.org).

## **Improving Decision-Making, Communication and Consultation**

**Introduction, Process and Purpose: Seth Kirshenberg, Executive Director, ECA, Willie Preacher, STGWG, Doug Frost, Office of Public and Intergovernmental Accountability, DOE-EM**

- Seth Kirshenberg said the Moses Lake Case<sup>3</sup> is applicable to any case under CERCLA.
- Willie Preacher told a story illustrating how people with different perspectives can interpret the same information differently, thus, there is a need to ensure clear communication.
- Doug Frost charged each of the four breakout groups to decide individually how they wanted to address communication issues. The goal for each group was to identify some successes, some failures and ultimately, to develop 1-2 recommendations for increasing and improving communication across the groups and with DOE.

## **Report-Outs from Breakout Sessions**

### **Blue Group**

**Moderators: Mark Gilbertson, Deputy Assistant Secretary, Office of Engineering and Technology, DOE-EM  
Seth Kirshenberg, Executive Director, ECA**

- The key issues discussed by the Blue Group were: communication between headquarters and the field, and communication between DOE-HQ and local communities.
- The Blue Group indicated the following actions should be taken: DOE should share information as it becomes available (i.e., before its final), DOE should move away from the “decide, announce, defend” philosophy – creating a culture of “no surprises,” a shared common vision for each site should be created, and DOE should make a commitment to set aside time to meet with groups.

### **Yellow Group**

**Moderators: Sandra Waisley, Director, Office of D&D and Facility Engineering, DOE-EM  
Kara Colton, Manager, NGA Federal Facilities Task Force**

- The Yellow Group identified the Los Alamos Pueblos Agreement, the Hanford Community Relations Plan, and the Oak Ridge site manager’s informal involvement in the community as recent communication successes. They described the risk-based end states initiative, NRDA, a lack of consistent messages from DOE, and a lack of communication involving contractors as failures.
- The Yellow Group believed the following actions should be taken: Better communication with contractors, greater stakeholder involvement in DOE’s budget process, better definition of roles and responsibilities in DOE-HQ, encouragement of DOE site managers to become involved in their communities, and giving frank answers to questions.

### **Red Group**

**Moderators: Erik Olds, Office of the Deputy Manager DOE-Hanford  
Jerry Boese, Ross & Associates**

- The Red Group identified the EM/LM transition teams, the Indian Policy Framework, and the inclusion of feedback on commentary as successes.
- The Red Group felt the following actions should be taken: DOE should engage in early communication including the “right” people, all means of communication should be used, and lessons learned should be shared and utilized.

### **Green Group**

**Moderators: Bill Levitan, Executive Officer, DOE-EM  
Carolyn Hansen, ECOS**

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<sup>3</sup> Information is available on ECA’s website at [www.energyca.org](http://www.energyca.org).

- The Green Group believed the following process improvements could be made: Increase decision-maker communication, communicate early, often, and in a digestible manner to the “right” people, provide information about EM’s reorganization, hold stakeholder discussions about the budget, and delegate to the lowest level possible.
- The Green Group also identified cultural improvements that could be made: Having two-way conversations, making efforts to be candid about issues and avoiding spin, cultivating a willingness to change, and employing A2R2 – Authorities and Accountabilities, Roles and Responsibilities.

#### **Breakout Observations and Q & A Session**

**Charlie Anderson, Principal Deputy Assistant Secretary, DOE-EM**

- Charlie Anderson said he understands that DOE needs to increase engagement with the Intergovernmental Groups.
- Mr. Anderson noted the budget is an ongoing process that people want to be involved in, but he feels that available information resources are not always fully utilized. He is interested in follow-up actions.
- In response to a question, Mr. Anderson said his vision of delegation depends on the decision. He said “delegation to the lowest level” is a catch phrase that is difficult to actually implement. He noted the types of decisions made at sites versus headquarters are not consistent.
- Mr. Anderson said communication is currently on the upswing, and DOE is working to minimize programmatic stove piping as much as possible.

#### **Luncheon Presentation: Overview of DOE’s Global Nuclear Energy Partnership**

**Tim Frazier, Associate Deputy Assistant Secretary, Office of Fuel Cell Management, Office of Nuclear Energy, DOE**

***(Presentation pending)***

- Tim Frazier provided an overview of the Global Nuclear Energy Partnership including transmutation fuel recycling, the NEPA process, and waste disposal plans.