

Intergovernmental Meeting with the U.S. Department of Energy

November 8-10, 2010

Summary of Plenary Sessions

On November 8-10, 2010, representatives of six intergovernmental groups – the National Governors Association (NGA) Center for Best Practices' Federal Facilities Task Force (FTFF), the Energy Communities Alliance (ECA), the State and Tribal Government Working Group (STGWG), the National Association of Attorneys General (NAAG), the National Conference of State Legislatures (NCSL), and the Environmental Council of the States (ECOS) – convened for their ninth joint meeting with the U.S. Department of Energy (DOE). The meeting was held at the Hilton San Diego Resort and Spa in San Diego, California. The joint meeting was designed to help DOE officials communicate with all of the key intergovernmental groups simultaneously, and to provide an opportunity for the individual groups to communicate collectively with DOE and among each other. Key topics for this meeting included the impending end of American Recovery and Reinvestment Act (ARRA) funding in FY 2012 and DOE's budgetary future, waste management, Natural Resource Damages Assessment and Restoration (NRDAR), and compliance. As noted below, all presentations and materials are available online.

Tuesday, November 9, 2010 – Plenary Session

Intergovernmental Group Priorities and Comments and Review of Action Items from 2009 Intergovernmental Meeting

Seth Kirshenberg, ECA

David Borak and Kristen Ellis, Office of Public and Intergovernmental Accountability, DOE-EM

*Mr. Kirshenber*g's PowerPoint slides are available [here](#). *Mr. Borak's and Ms. Ellis'* PowerPoint slides are available [here](#).

Mr. Kirshenber

g provided an overview of the intergovernmental groups' priorities for 2010. He began by listing DOE's goals, which include: risk reduction, compliance, footprint reduction, safety performance, project management, and excellence in management and leadership. He noted that as the intergovernmental groups develop their own priorities, it is important to keep the DOE goals in mind. Mr. Kirshenberg stated that it is important for DOE to recognize the individual nature of the six intergovernmental groups. In particular, the groups feel that DOE should remain engaged with all of the intergovernmental groups in a meaningful capacity. Primary concerns across the groups include the state regulatory role; tribal sovereignty; direct communication with local governments; communication about, and disposition of, high-level, mixed and low-level waste; long-term stewardship; NRDAR; and energy parks. New issues of concern in 2010 include maintaining funding at a sufficient level to meet regulatory commitments, and the importance of meetings with leadership.

Mr. Kirshenber

g then itemized the priorities and key issues for each of the six intergovernmental groups, as shown in his PowerPoint slides.

Kristen Ellis and David Borak then presented the status of action items from the 2009 Intergovernmental Meeting. They provided a one-page handout summarizing this status. Ms. Ellis presented action item #1, which called on DOE-EM to evaluate each site on how well they were engaging state regulators, local governments, tribal governments, citizen groups, and other stakeholders. She explained that Dr. Inés Triay made the commitment to conduct the evaluation, and that the evaluation focused on sites with the highest regulator presence. Evaluators reviewed every weekly report that the sites had submitted for one year, and then sent a survey to site employees. The goal of the survey was to gain a holistic understanding of the activities of each site. The evaluation incorporated feedback from the intergovernmental groups; the results of the evaluation showed a fair amount of communication at each site between state, local, and tribal governments. Ms. Ellis described the next steps for the evaluation, which are to include more site managers in future meetings (Ms. Ellis noted that there were several site managers in attendance at the current meeting), to share innovative policies with other sites and develop a list of best practices, and to correct concerns identified in the report.

Mr. Borak then described the status of action item #2, which requested DOE-EM to develop clear milestones for formal, routine, and structured engagements on strategic planning, the five-year plan, budget and compliance, and prioritization. Beginning in January 2011, EM will issue guidance to sites encouraging them to engage with regulators and stakeholders during the FY 2013 budget formulation, with the long term goal of institutionalizing the process.

Mr. Borak then described action item #3, which was to engage with groups about post-ARRA planning, including footprint reduction goals. EM has conducted regular calls with all stakeholder groups, which will continue both for post-ARRA planning and any other relevant topics. (On DOE's list, former action item #10 is incorporated as part of #3)

Action item #4 called on DOE-EM to track compliance milestones as a performance measure and add compliance with regulatory milestones as a performance measure for Senior Executive Service (SES). EM has hosted calls with the states on sharing compliance milestone information, has continued to post the Compliance Milestone Scorecard quarterly on the [EM website](#), and has confirmed that compliance with regulatory milestones is in fact a performance measure for SES employees.

Action item #5 requested DOE-EM to initiate discussion of waste interdependencies between sites. Christine Gelles (Director, Office of Disposal Operations, DOE-EM) held a conference call in December 2009 with all the groups to discuss waste interdependence, and Frank Marcinowski presented at the Spring Meetings of NCLS, STGWG, and NGA on the current status of the complex.

Regarding action item #6, EM has worked with NGA to create a NRDAR progress matrix, which is posted on the NGA FFTF website (www.fftfcleanup.org).

Action item #7 sought DOE-EM's assistance in sharing groups' concerns and issues with the Secretary around the Blue Ribbon Commission on America's Nuclear Future (BRC). Assistant Secretary Triay has shared input from the EM intergovernmental groups with the Secretary's

Office on this topic. Dave Borak noted that Tim Frazier would be speaking on the BRC later during the day.

For action item #8, regarding development of an EM policy for Energy Parks including a review of the land transfer process, Mark Gilbertson will continue to brief the groups on Energy Parks and receive their input. A possible DOE-wide task force is being reviewed at the Undersecretary level.

The final action item (#9), to invite more EM site representatives to intergovernmental meetings, resulted in many site representatives being in attendance; Mr. Borak expressed gratitude to them for attending, and a desire to have more of them at future meetings.

Participant Comments and Questions

- A participant commented that several of the action items are not completed but are ongoing. Another participant agreed, and asked that meeting participants be a part of the planning process for ongoing items, specifically post-ARRA budget planning.
- A participant noted that the term “stakeholders” should include local governments and tribes.
- A participant commented that the EM website displays DOE’s perspective on whether it is in compliance, and needs to have fuller disclosure.
- A participant commented that it is critical for the group to consider interim storage while the BRC deliberates on long-term storage. He also commented that once a repository is selected, it is critical to consider the political obstacles that will be necessary to overcome. Finally, he proposed that the Civilian Radioactive Waste Fund be converted to a public-private partnership in order to move the process forward in a way that is beneficial to everyone.

Overview of EM Policy and Progress for 2010

Dr. Inés Triay, Assistant Secretary, DOE Office of Environmental Management

Ms. Triay’s PowerPoint slides are available [here](#).

Dr. Triay began by emphasizing that over the years, the involvement of the state and tribal partners and other government officials present at this meeting has been invaluable and essential to the success of the Environmental Management mission.

Dr. Triay began her formal presentation by noting the seven EM goals listed in the *EM Journey to Excellence* (<http://www.em.doe.gov/pdfs/Roadmap.pdf>). The first four goals center around the EM program objectives, with the final three focusing on management. The first program goal is to complete the three major tank waste treatment construction projects within their approved baselines. Dr. Triay emphasized that DOE is dedicated to transforming liabilities into assets. However, as ARRA ends, DOE will lay out workforce restructuring initiatives throughout the entire EM complex, with voluntary restructuring followed by involuntary restructuring. The second goal is to reduce the life-cycle costs and accelerate the cleanup of the Cold War environmental legacy. Dr. Triay noted the importance of land transfer of cleaned-up assets to achieving the second goal. Dr. Triay noted that the third goal, to reduce the EM legacy footprint

by 40 percent by the end of 2011, leading to approximately 90 percent reduction by 2015, will be a tremendous accomplishment. From 107 sites in 1989 to 19 sites in 2010, from 34 states to 11 states, the program has thus far been very successful. She noted that the fourth goal is the cleanup of 90% of total legacy transuranic (TRU) waste by 2015, and that while post-ARRA work will be difficult, great strides have been made in this area.

Dr. Triay also discussed Secretary Chu's seven management principles for the department as well as the three the management ("how") goals EM has set for itself in *Journey to Excellence*.

Dr. Triay reviewed EM's overall budget priorities, emphasizing that the first priority ("Essential activities to maintain a safe, secure, and compliant posture in the EM complex") now includes "compliance" as a result of input at a previous Intergovernmental Meeting.

Dr. Triay discussed the lifecycle costs profile, noting that tank waste is the highest priority, representing 43% of complex-wide lifecycle costs. Enhanced tank waste strategies are key, and Dr. Triay noted that the Savannah River Site may be able to move its projected 2024 cleanup date forward by two to three years, which would be a significant accomplishment. Enhanced tank waste strategy efforts could potentially be transferred from the Savannah River site to the Hanford site and the Idaho site. Dr. Triay discussed footprint reduction as a significant goal, noting that cleaned-up land is considered reduced footprint even if the land has not been transferred to another party.

Dr. Triay noted the importance of relationships with state regulators, local communities, and tribal governments. It will be an EM priority to deal with the difficult decisions ahead, including workforce restructuring, without losing the momentum that the program has achieved. The program goals are aggressive and are meant to inspire DOE staff to strive for excellence. Dr. Triay concluded by asking the intergovernmental groups for their guidance, views, and leadership as they move forward with workforce restructuring and budget prioritization.

Following Assistant Secretary Triay's remarks, senior EM officials and site managers convened on the stage for a roundtable discussion. Joining Assistant Secretary Triay were DOE officials Frank Marcinowski, Shirley Olinger, Dave Brockman, Matt McCormick, Bill Murphie, Jack Craig, and John Eschenberg. The discussion touched on the following issues:

- *Land transfer, and the issue of some states prohibiting land from being transferred unless it has been cleaned to residential standards.* Using cleaned-up land for uses such as parking garages and storage facilities is a viable option.
- *The BRC's discussions about waste definitions and storage.*
- *Post-ARRA funding and preparations for budget reductions.* Dr. Triay noted that DOE is in a deliberative process to guarantee preparedness for decision-making with regard to budgets below the 2010 baseline. She also expressed a belief that the new Congress may emphasize deficit reduction, which could result in reductions in federal spending such as the EM program. Some panel participants said that it is important to emphasize the efficiency and success at EM sites in order to communicate the high return on investment going into budget restructuring. Dr. Triay informed attendees that, while DOE is preparing for budget cuts and planning for scenarios in which reductions would take

place, the agency will continue to fight for funding. Dr. Triay emphasized that the EM program is the third-largest liability of the federal government, and she assured participants that she continues to make the case for funding based on the argument that failing to invest in cleanup constitutes an enormous risk.

- *Prioritizing beyond the issue of radioactivity per unit volume, for example, at sites that exist within city limits and have impacts on population centers.* Dr. Triay emphasized that factors beyond radioactivity per unit volume are important considerations in pursuing balance across the EM program, and stated that such considerations will be taken into account during budget preparations. She also mentioned that innovative strategies will be rewarded.
- *The future path of the EM program in years ahead as acreage is reduced and nearly all sites are cleaned up.* Dr. Triay suggested that former cleanup sites might have a role to play in nuclear energy production, and that it will be important to make the case for keeping up momentum and investing in cleanup through the last cubic meter of waste.
- *Many states have new Congressional representatives following the recent election.* One participant requested talking points to use when addressing Congressional representatives about prioritizing funding for EM. Dr. Triay replied that DOE will work with field managers to ensure that they have the necessary information to address their representatives.

Update on Policies for Future Use of EM Sites

Mark Gilbertson, Deputy Assistant Secretary for Program and Site Support, DOE-EM
Mr. Gilbertson's PowerPoint slides are available [here](#).

Mr. Gilbertson opened his presentation by explaining that footprint reduction acknowledges that each site has unique assets notwithstanding the waste and contamination they currently contain. Potential site assets include: land, buffer zones, structures, roads, and rail lines. He stated that footprint reduction involves working in committed relationships with communities, and recognizing communities' desires for a diversified economy. Opportunities for future uses of sites include renewable energy activities (including biomass, solar, and wind), wildlife refuges, and nuclear energy. DOE recommends that energy parks be considered as an option for the future use of sites, and decisions about future uses should be based on input from a variety of stakeholders, including communities, states, the private sector, and tribes.

Mr. Gilbertson reviewed several concepts for future uses of EM sites as proposed at recent workshops and meetings. Suggestions include utilizing wind power to drive groundwater cleanup processes and nuclear power generation. He described Executive Order 13514, which requires all federal agencies to implement strategies to reduce greenhouse gas emissions, use water more efficiently, promote pollution prevention, and support sustainability in a variety of ways. Mr. Gilbertson described proposed legislation H.R. 5136 (S.3454), which would authorize DOE to develop energy parks on defense nuclear facility reuse properties, and would encourage DOE to move forward in considering energy parks.

Mr. Gilbertson reviewed near-term potential tasks that are under consideration, including a proposal to establish an interoffice energy parks task force. He reviewed examples of potential issues, which include determining how to leverage existing assets, ensuring transparent and

equitable processes, and engaging community input into future planning after cleanup is complete. He concluded by summarizing that waste is not the asset on EM sites; the intellectual capability present to move toward future uses is the key asset.

The Blue Ribbon Commission on America's Nuclear Future

Mr. Tim Frazier, Designated Federal Officer, U.S. Department of Energy

Mr. Frazier's PowerPoint slides are available [here](#).

Mr. Frazier prefaced his presentation by emphasizing that he was not speaking on behalf of - or representing - the BRC. He then opened by noting the substantial amount of spent nuclear fuel in the U.S., pointing out that even if no new nuclear plants are constructed in the U.S., over 100,000 tons of used nuclear fuel will exist in the country by 2050. If the U.S. maintains a level of 20% of its energy production from nuclear energy, then by 2050 there will be approximately 275,000 tons of spent nuclear waste. In order to address this problem, the President directed the Secretary of Energy to establish the Blue Ribbon Commission on America's Nuclear Future, which consists of fifteen members, including two former U.S. Senators and other respected former elected officials, scientists, and industry and labor representatives.

Mr. Frazier explained that the BRC endeavors to be as transparent as possible, with many meetings live-cast and most presentations open to the public. Video recordings of previous BRC meetings are available on the BRC website (www.brc.gov). Some of the BRC's subcommittee deliberation is closed in order to allow time to interact and move forward. Mr. Frazier also explained that the BRC charter, signed by presidential memorandum on January 29, 2010, directs that the Commission issue a draft report no later than July 29, 2011 and the BRC will meet that deadline. The final Commission report is due on January 29, 2012, however the BRC will attempt to deliver its report early due to the urgent need to address the matters of high-level waste and spent nuclear fuel. The report will evaluate existing technologies, and will offer advice and recommendations on the policy and management of used nuclear fuel, changes in law, and fees currently being charged. Any recommendations from the BRC will necessitate changes to the Nuclear Waste Policy Act.

Mr. Frazier then gave a brief overview of the BRC's subcommittees, including the Reactor and Fuel Cycle Technology Subcommittee, the Transportation and Storage Subcommittee, and the Disposal Subcommittee. He emphasized that the Disposal Subcommittee is not designed to fulfill the role of a site selection commission, and will not select a specific site. The subcommittee will recommend a pathway to select a site in the U.S. that will have broad acceptance. The Commission has traveled to Sweden and Finland to explore the strategies that have been used there to select long-term storage sites. In Finland, local communities were engaged in town hall meetings and came to accept the Okiluto 3 and underground rock characterization facility there.

Mr. Frazier concluded by noting that BRC-commissioned papers are available at www.brc.gov and that many more commissioned papers are in process. Feedback may be sent to brc@nuclear.energy.gov.

Participant Comments and Questions

- A participant asked whether the BRC was committed to unanimous consensus. Mr. Frazier replied that the BRC is committed to finding a majority consensus, but not a unanimous one.
- Several participants asked questions on the subject of long-term storage versus interim storage. Mr. Frazier stated that the BRC is reviewing many perspectives and options for long-term storage, but that he was unable to reveal any of their deliberations in detail at this time. In response to questions about Yucca Mountain, Mr. Frazier clarified that Yucca Mountain is not under consideration as an option for long-term storage, and that the BRC hopes to develop a site-selection process that would be as apolitical as possible, while recognizing that politics will necessarily play at least some role. He noted that the Swedish and Finnish model of having two sites competing to host long-term storage would be highly desirable to conduct in the U.S. in order to garner support.
- A participant asked what the process will be for public review of the draft report. Mr. Frazier replied that that has not been determined yet, but that there may not be a formal solicitation for public comment. He also stated that he was unable to reveal any information about the content of the draft report.

EM Planning and Budgets: The End of an ARRA

Steve Trischman, EM Recovery Act Program, DOE-EM

Shirley Olinger, Associate Principal Deputy for Corporate Operations, DOE-EM

Mr. Trischman's PowerPoint slides are available [here](#). Ms. Olinger's PowerPoint slides are available [here](#).

Mr. Trischman began his presentation with an overview of DOE's process of receiving ARRA funding eighteen months ago, when DOE endeavored to demonstrate that EM represented a good return on investment, and as a result, was allocated \$6 billion to spend in just two years. He explained that most EM projects funded by ARRA dollars will be completed by 2011, but that some will continue into 2012.

Mr. Trischman noted that a substantial portion (\$1.6 billion out of the total \$6 billion) of the EM ARRA money has gone to fund small businesses. ARRA funding at EM has resulted in 24,012 full-time, part-time, and temporary workers being hired, or a total of 10,500 FTEs. Mr. Trischman explained that, of the total EM footprint of 931 square miles, 171 square miles or more will be cleaned up during ARRA funding. He discussed other impacts of ARRA funding, including the projected completion of cleanup at 260 facilities.

Mr. Trischman then moved on to discuss EM's worker transition policy. He acknowledged the difficulty of reducing the workforce by 10,500 FTEs as ARRA funding runs out. He stated that there is hope that some older workers will retire and leave younger workers able to stay on, but that there will have to be many adjustments to the workforce. Efforts underway to ease the transition include outplacement services, individual counseling, career planning services, job search strategies assistance, resume development, and job fairs. He emphasized that because these workers possess nuclear skills, they will be well-equipped to work when more nuclear energy plants are constructed. EM is working with contractors, local communities, and local educational institutions to help ease the transition process.

Mr. Trischman noted several observations and lessons from the ARRA process. He noted that it was helpful to work with sites early and frequently, with day to day engagement helping the process. He also noted the importance of a culture of continuous improvement. He stated that projects with clearly defined scopes were easier to manage and enabled the achievement of results. He concluded by stating that EM is committed to adhering to strong project management principles, continued vigilance on monthly project reviews, completing projects on time and within budget, carrying forth the lessons learned to the base program, and assisting with worker transition.

Ms. Olinger's presentation emphasized that the outlook for the EM cleanup program will depend on making the case that there are valuable opportunities to invest in the program based on the success of ARRA programs. She stated that ARRA project successes have proved that EM is investment-worthy and that the program gets results. She stated that EM is the "star" of programs that received ARRA funding, as EM projects were the most ready to obligate and commit funds, and will be the first to begin releasing ARRA-funded workers.

Ms. Olinger then explained EM budget priorities going forward into the post-ARRA era. Tank waste is the highest priority, followed by groundwater. She emphasized that eliminating tank waste means eliminating a significant liability for the country. She reiterated the goal of reducing the EM footprint by 40% by 2011 and 90 percent by 2015. However, layoffs will be a necessary part of the end of ARRA funding. In addition, she noted that the Administration has indicated that DOE should plan for a 5% funding reduction in 2012 in addition to the loss of ARRA funding. She encouraged meeting participants to get involved in helping to prioritize the new budget.

Ms. Olinger explained that the FY 2012 budget strategy will necessitate prioritizing return on investment. She noted that Idaho represents the next opportunity to complete a cleanup at a large EM site. An infusion of funding will be necessary in order to complete cleanup at Idaho. Ms. Olinger concluded by stating that EM will explore opportunities for savings, but noted that there will be challenges in 2012 and DOE is working on ways to mitigate and prevent risks that will arise. She reiterated her earlier request for assistance in prioritizing for the 2012 budget should the 5% reduction become reality.

Following Mr. Trischman's and Ms. Olinger's remarks, John Owsley from the State of Tennessee moderated a discussion. The discussion touched on a variety of topics, including:

- *Lifecycle cost savings.* A participant commented that it was unclear how it has become cheaper to conduct cleanup now, and recommended a more terminology-neutral explanation.
- *The challenges remaining to EM cleanup.* Panelists noted that the cleanup of TRU waste at the Savannah River Site right now is the most difficult to handle, and that the effort takes more time, but that they are confident that cleanup will be complete at Savannah River by 2012.
- *The emphasis on return on investment.* Some participants felt that by prioritizing high return on investment, smaller sites are put at a disadvantage. Ms. Olinger commented that she agrees, and that other priorities beyond return on investment are important. Another

participant suggested that in addition to looking at return on investment, the EM program look also at risk reduction.

- *The end of ARRA funding and its impact on communities.* One participant noted the positive impact that ARRA funding has had on Aiken County and the Savannah River Site, but worried that the area would suffer a delayed recession when ARRA ends. Panelists replied that there will not be a complete drop-off in funding, but that recovery work will continue after 2011, which will result in a smooth slope with workforce restructuring.
- *The potential 5% budget reduction in 2012.* A participant asked whether sites will be able to meet mandates given this budget reduction. Panelists replied that meeting state milestones will be a priority.

DOE Waste Management Policy and Strategies

Mr. Frank Marcinowski, Deputy Assistant Secretary for Technical and Regulatory Support, U.S. DOE-EM

Mr. Marcinowski's PowerPoint slides are available [here](#).

Mr. Marcinowski presented a status update of the management and disposal of waste from EM sites. He displayed a brief history of DOE's current waste management system, and explained DOE's radioactive waste management priorities. He mentioned that DOE order 435.1 Radioactive Waste Management will be updated after a joint NRC/DOE public meeting in March in Phoenix, and welcomed anyone who wished to participate.

Mr. Marcinowski described highlights of LLW and MLLW disposition efforts. ARRA provided funding for solid waste disposition, soil and groundwater remediation, and facility decontamination and decommissioning projects, and increased volumes of both types of waste are expected to continue in FY 2011. He noted that DOE updates life-cycle LLW/MLLW forecasts annually and that this information is available in the Waste Information Management System ([WIMS](#)). Nearly 4.3 million cubic meters of LLW/MLLW will be generated from FY 2010-2015, with the vast majority to be disposed on site. Over 55,000 cubic meters of LLW/MLLW are predicted to be disposed of at NNSS¹ in FY 2011. He noted that DOE continues its effort to rely more on commercial facilities for waste disposal and one issue is that by the end of November 2010, there will not be an existing LLW/MLLW disposal facility available. A new facility is expected to be available by the second quarter of 2011. In FY 2013-2014, DOE expects a major reliance on commercial offsite disposal.

Mr. Marcinowski provided an update on TRU waste disposition, noting that the Waste Isolation Pilot Plant (WIPP) has disposed of over 71,000 cubic meters of defense transuranic waste since March 1999. He stated that DOE has a plan for remote handled waste and is moving forward with several sites; however it is difficult keeping the pipeline full to maximum capacity for the most efficient WIPP operation. He noted that a goal is to complete an average of 30 contact-handled and five remote-handled TRU waste shipments per week through FY 2015 using both ARRA and base funding.

¹ Nevada National Security Site, formerly known as Nevada Test Site (NTS)

Mr. Marcinowski provided an update on the Greater-than-Class-C (GTCC) LLW disposal Environmental Impact Statement (EIS). The draft EIS is scheduled for issuance in early 2011. The draft will evaluate various alternatives under consideration, but will not recommend a preferred alternative. Mr. Marcinowski concluded by noting that EM continues to develop its strong relationships with regulators, stakeholders and industry, and depends on these relationships to support DOE waste and materials disposition and DOE cleanup goals.

Following Mr. Marcinowski's remarks, Ken Niles of the State of Oregon led a panel discussion. Panelists were Shelly Wilson of the State of South Carolina, Dave Brockman of the Office of River Protection, and Matt McCormick of the Richland Operations Office. The discussion touched on the following topics:

- *The availability of commercial disposal and potential impact on DOE.* John Owsley asked if the potential for competition could result in a change in DOE's policies regarding onsite disposal. Mr. Marcinowski replied that DOE's policy is for waste to be disposed of onsite, and when onsite disposal is not feasible, to dispose of waste in another federally-owned facility, and only if that is not a possibility then a commercial facility may be considered.
- *DOE order 435.1 and its revision status.* Mr. Marcinowski clarified that in the case of the Natural Resource Defense Council bringing suit against DOE, the judge dismissed the case as lacking ripeness. A participant raised the question of where authority resides to define HLW, and Mr. Marcinowski stated that the Secretary of Energy has that authority.
- *The closure of the TSCA incinerator.*
- *Whether it might be more efficient in some cases to treat waste offsite,* especially when a site has a community living in close proximity. Mr. Marcinowski replied that it is much more efficient to dispose of waste onsite.
- *GTCC waste and the issue of where to dispose of it.* Mr. Marcinowski reiterated that the draft EIS will not recommend an alternative, but that the intention is to open discussions with Congress to work toward a final EIS.

Natural Resource Damages Assessment and Restoration

Mr. Frank Marcinowski, Deputy Assistant Secretary for Technical and Regulatory Support, U.S. DOE-EM

Mr. Marcinowski's PowerPoint slides are available [here](#).

Mr. Marcinowski briefly described Natural Resource Damages Assessment and Restoration (NRDAR) activities across the EM complex. At the Oak Ridge site, NRD settlement for Lower Watts Bar Reservoir was signed in October, and an expedited assessment for the remainder of the site is underway, with a draft assessment expected by the end of November 2010. At Los Alamos, work is underway on a NRDAR assessment plan, with a final plan expected in 23 months. At Hanford, work is underway on a NRDAR plan, with litigation pending. At Portsmouth, a formal request from Ohio to initiate settlement negotiations has been issued, and DOE has deferred negotiations to concentrate on execution of a new D&D order and contractor transition. At Paducah, Kentucky has expressed informal interest in NRDAR but no substantive discussions have occurred to date. At Weldon Spring, NRDAR discussions are suspended due to a lack of available funding.

Mr. Marcinowski provided an update on the draft NRDAR Integration Policy, stating that the policy is undergoing internal EM review. The Assistant Secretary will determine whether to propose it as a DOE-wide policy.

Following Mr. Marcinowski's presentation, Tom Schneider of the State of Ohio led a discussion panel which included Amy Fitzgerald of the City of Oak Ridge, Gabriel Bohnee of the Nez Perce Tribe, and William Murphie of the Portsmouth/Paducah Project Office. The discussion touched on several topics, including the following:

- *Tribal uses of EM land, including the cultural use of land, and DOE's understanding of how to work with tribes at their sites.* Some participants mentioned the value of tribal treaty rights to utilize the land's resources, including hunting and fishing rights.
- *Damages to natural resources with impacts on the community, and the potential negative impacts from conservation easements.*
- *The balance of economic development and the desire to set aside land for natural conservation.*
- *The importance of meaningfully including input from stakeholders and local governments, which are not specifically included under NRDAR processes.* One participant noted, for example, the damage done by posting signs warning against fish consumption on a community in which the local fishing industry was harmed for years, and the desire for compensation from DOE for the loss of income due to the signs.

Wednesday, November 10, 2010 – Plenary Session

Coordination and Decision-Making with the National Nuclear Security Administration

Mr. Kenneth Powers, Associate Administrator for Infrastructure and Environment, National Nuclear Security Administration

Mr. Powers's PowerPoint slides are available [here](#).

Mr. Powers provided an overview of the NNSA mission and vision for the future, which includes providing computer modeling and simulation support, developing clean energy to meet increasing demand, and supporting defense and homeland security missions. He emphasized that NNSA values being a "good neighbor" while accomplishing its missions, striving for safety, quality, accountability, integrity, continuous improvement, and teamwork. He noted that NNSA places a high priority on being good stewards of the environment, human health, and the public trust. Mr. Powers described NNSA's Office of Infrastructure and Environment, and provided examples of its projects. One example was the MOX Fuel Fabrication Facility, under construction at the Savannah River Site, which was designed with input from individuals in the community. Mr. Powers provided an overview of the Office of Environmental Projects and Operations, which conducts environmental cleanups at NNSA sites, maintains long-term environmental stewardship, and executes National Environmental Policy Act (NEPA) compliance. He provided several examples of environmental projects, including the 2008 DOE-EPA joint issuance of the Pantex site-wide Record of Decision eight years ahead of schedule, allowing for the transition to long-term stewardship. Mr. Powers then described the Office of Nuclear Materials Integration, which oversees the consolidation and disposition of excess

nuclear materials, the maintenance of nuclear material inventory, and the establishment of life cycle nuclear material policy. Mr. Powers concluded by reiterating the importance of partnership with the intergovernmental groups, local communities, and stakeholders in order to succeed in its mission.

Participant Comments and Questions

- A participant asked about the relationship between the NNSA and EM with regard to environmental issues. Mr. Powers replied that a key goal of NNSA is to increase its partnership with EM. In the joint relationship, EM provides the funding and NNSA is responsible for executing cleanup, environmental monitoring, legacy waste, etc.
- *Partnerships with tribes.* Mr. Powers said NNSA is very interested in meeting with tribes.
- *Emergency response at the Hanford site.* A participant commented that there is a need for greater coordination between the Hanford Site, local emergency responders, and local governments. Mr. Powers stated that he would communicate this concern to the individual responsible for emergency response.
- *Imminent budget reductions at EM as compared to the budget situation at NNSA.* A participant expressed concern that the NNSA will be using funds to extend the lives of nuclear warheads, and commented that the NNSA should partner with EM to help with deteriorating facilities. The participant hoped that increases in NNSA's budget would lead to a funding partnership between NNSA and EM. Mr. Powers replied that a prioritization process is underway to identify where funding should go within the NNSA priority areas of legacy waste, cleanup, and infrastructure improvements.
- A participant encouraged NNSA to maintain a high priority on site cleanup, and avoid having to extend cleanup goals beyond their current projected deadlines. Mr. Powers replied that NNSA is indeed prioritizing milestones and getting them done on time.

Legacy Management: Coordination and Strategic Planning

David Geiser, Director, DOE Office of Legacy Management

Mr. Geiser's PowerPoint slides are available [here](#).

Mr. Geiser opened his presentation by requesting feedback on the latest Legacy Management (LM) Strategic Plan, which is in draft form on the LM [website](#). The public comment period closed on November 30, 2010. He explained the LM mission, which is to fulfill the DOE's post-closure responsibilities and ensure the future protection of human health and the environment. He noted that LM only has responsibility for sites at which DOE has completed most of the cleanup. He indicated that the most important and challenging part of the LM vision is maintaining a trusting relationship with stakeholders, tribes, and state and local governments.

Mr. Geiser explained the LM goals, which are to protect human health and the environment, to preserve, protect and share records and information, to meet commitments to the contractor work force, to optimize the use of land and assets, and to sustain management excellence. He emphasized that the highest priority is compliance. He explained how the LM scope has expanded since 2007, in that it has received 14 additional sites, opened the LM Business Center in Morgantown, West Virginia, opened the Fernald Preserve Visitors Center, met requirements to sustain its OMB designation as a High-Performing Organization, expanded environmental justice activities to include tribal nations in the southwest, and expanded uranium leasing through

a competitive solicitation. Mr. Geiser also mentioned the ways in which LM scope has decreased, including a reduction in funding requirements for the ERISA minimum pension payment, the disposal of three federal properties, and the transfer of responsibility for labor relations and labor standards to the Office of the General Counsel. Mr. Geiser concluded by describing the LM planned scope for the future, which includes taking on 33 new sites by 2015, supporting the establishment of energy parks at LM sites, beginning to operate a mercury storage facility in 2013, managing the Office of Civilian Radioactive Waste Management's records, IT, licensing support network, and USARS pensions and post-retirement benefits in 2011, managing other programs' records through the LM business center, and working to reduce the impacts of future uranium mining and milling on the environment.

Participant Questions and Comments

- A participant asked about the role of LM in characterizing a site as clean, with regard to tribal nations' need to use the land for food and medicines. Mr. Geiser said that LM's position is that cleanup should always be conducted to the maximum extent possible, but that LM does not have a formal role in the cleanup decision, which is between the community and the regulator.
- A participant inquired about Community Reuse Organizations (CROs) and whether LM would consider the role of a CRO to support DOE and help local communities. Mr. Geiser replied that during the Bush administration, the decision was made to cease funding CROs.
- A participant commented on the responsibility of LM to maintain long-term stewardship, and asked if LM has considered the extent to which assuring long-term stewardship will depend on local people, and if LM might establish relationships with tribes to help them become part of the program. Mr. Geiser replied that LM is in genuine consultation and involvement with every tribal nation where there is a site on the tribal nation's property or adjacent to it.
- A participant commented that LM's electronic records are difficult to acquire electronically. Mr. Geiser replied that he will look into how the records and search functions are set up.

The 2010 Elections – Implications for the Complex

Seth Kirshenberg, ECA

Mr. Kirshenberg's PowerPoint slides are available [here](#).

Mr. Kirshenberg provided an overview of the changes that will result from the recent elections, and potential impacts on EM operations. He noted that there is natural political turnover every couple of years in the standard election cycle. He compared the results of the 2008 elections to the 2010 elections in both the House of Representatives and the Senate. Mr. Kirshenberg's presentation displayed the influx of Republican leadership after the 2010 elections, particularly in the House. He noted that the change in leadership provides an opportunity for hearings to take place on a variety of issues, and that it is likely that the new GOP leadership will attempt to make Yucca Mountain a high-profile issue. He also noted that there will be a strong focus on fiscal conservatism, which will mean greater pressure to reduce spending on programs, which could include EM.

Mr. Kirshenberg discussed the changes that will take place in both the Senate and the House Subcommittees on Energy and Water Appropriations. The chairman of the Senate subcommittee will change. On the House subcommittee, because many Democrats have lost their seats, the chairmanship will change as will much of the membership. Mr. Kirshenberg then discussed changes in governorships throughout the country, and noted that there are new governors in eight of the states that host EM sites.

Mr. Kirshenberg stated that the current Congress will likely pass the Defense Authorization Bill in the next couple of weeks, and that the current continuing resolution expires on December 3rd. He predicted that in the next Congress, the Senate will support flat funding. He noted that the DOE's budget is likely to decrease, with NNSA's budget increasing due to the Republican demands in association with passing the START Treaty, and that the EM budget is likely to remain flat or decrease. He concluded by reiterating the prediction that in the coming presidential election cycle, there will be a focus on which party can be more fiscally responsible, and that nuclear energy and cleanup will be a low priority.

Participant Questions and Comments

- A participant inquired whether earmarks in the current continuing resolution that have already been passed are expected to go forward. Mr. Kirshenberg explained that normally, a continuing resolution does not have earmarks. There will be an omnibus bill with all the appropriations combined that will have identified earmarks. It will be difficult for the House to eliminate the earmarks.
- A participant asked whether nuclear energy, as a potential tool in the fight against climate change, might interact with the cleanup of the EM complex. Mr. Kirshenberg replied that in the past, EM has tied the idea of solving the waste issue to that of moving forward with nuclear energy. He emphasized that obtaining funding for nuclear cleanup will mean conveying that information.

Intergovernmental Groups: Next Steps

Facilitator: Bill Ross, Ross and Associates

Panelists: Rick McLeod (ECA), William Preacher (STGWWG), John Heaton (NCSL), Jim Sferra (ECOS), Steven Stout (NAAG), Andrew Kambour (FFTF)

William Preacher presented comments from [STGWWG](#), and noted that the group would like to see more people from headquarters at the Intergovernmental Meeting. STGWWG's goals tend to be consistent from year to year, and a primary issue is to convey the message that tribes wish for greater mutual understanding of what is meant by a trust responsibility. STGWWG emphasizes the need for proactive, transparent communication with tribes early in the decision process. Mr. Preacher noted that STGWWG would like another tribal summit to be held, preferably a programmatic summit, and is willing to assist DOE toward that end. He noted that STGWWG is concerned about fully funding NRDAR activities at EM sites, but not at the expense of cleanup.

Rick McLeod presented issue areas for ECA. He noted that there is a desire for a slightly different format for the meeting, with more panels for panelists to respond to issues, or perhaps a panel in which Intergovernmental Group members could answer questions from DOE. He

commented that the meetings should continue to be held, and that having site managers attend was a very positive addition.

John Heaton presented issue areas for NCSL. He noted that HLW is a high priority from the perspective of NCSL. He noted that tremendous successes have occurred but that interim storage is a concern, as is an ultimate decision on reprocessing. NCSL is concerned about a decision being made on HLW soon. He stated that the next steps should involve an agreement that nuclear power will play a role in our future, is critical to the security of the U.S., that there is a need to agree on cleanup steps that are important, and to develop joint resolutions that define the direction of the country on nuclear power.

Jim Sferra presented comments from [ECOS](#). He commented that the meeting has been very helpful in promoting effective communication between participants. He noted that states would like to consult on annual budgets sooner rather than later in the budget process, with a discussion taking place prior to April. States would also like to review developing DOE policy on NRDAR as soon as possible. ECOS has significant interest in the record of decision being released on mercury storage. He stated that the next ECOS meeting will be in Virginia in March.

Steven Stout presented on behalf of NAAG. He stated that NAAG's top priority has received short shrift during the meeting, which is compliance with agreements at sites around the country based on statutory and regulatory environmental law. Achieving compliance is the business of attorneys general and there is a significant discrepancy between necessary and anticipated cleanup funding. He observed that DOE often achieves "compliance" by renegotiation of milestones, and expressed significant dissatisfaction on behalf of NAAG for this practice, because NAAG prioritizes compliance without extending and delaying cleanup goals. He also noted that another NAAG priority is the integration of the NRDAR into investigation and cleanup processes. Finally, he stated that a NAAG priority is collaboration in decision-making in a meaningful capacity during the decision-making process.

Andrew Kambour presented priority issues of the FFTF, including the need to ensure that DOE fulfills its promises to the intergovernmental groups; he commented that the FFTF must consider what it can do to help and ensure that EM keeps its promises. Furthermore, before the next meeting, the intergovernmental groups need to identify priorities upon which they should collectively focus, and these should be a short list of bullet points rather than a long list of potential priorities. Inasmuch as all indications point to a low budget in FY'12, budget prioritization principles will be a key theme. He noted that the groups need to continually remind DOE that the transparency of the five year plan process must be kept up. Mr. Kambour further noted that the FFTF is interested in a more formal process, similar to the process for collaboration on Site Treatment Plans following the passage of the Federal Facility Compliance Act, for consideration budget prioritization and other decisions. Finally, he noted that the FFTF feels it was very important and beneficial for Dr. Triay to be in attendance at this meeting.

Participant Questions, Comments, and Discussion

- A participant suggested that the intergovernmental groups should produce a joint letter from this meeting focusing on the commonalities between the groups. Another participant

commented that there is less overlap between the groups this year than there has been in past years, and that while there is strength when the groups are unified on such issues such as transparency, this year the increased focus in some groups on non-cleanup issues such as energy parks dilutes the possibility of all the groups coming together on issues that are important to all of them. Another participant suggested that the focus of such a letter could be convincing Congress to support EM programs, rather than targeting DOE. Bill Ross suggested that the letter put forward the idea of a truly collaborative discussion with DOE, capitalizing on DOE's message throughout the meeting that they cannot complete their mission without cooperation from everyone. The letter could focus on the value of a truly collaborative discussion toward keeping future missions and compliance as an anchor to keep all the groups and DOE together. A participant expressed agreement with the idea of a letter encouraging Congress to help EM do its work with adequate funding, and noted that ECOS would be happy to cosign such a letter.

- A participant noted the absence of EPA from recent meetings, and suggested that the groups attempt to get EPA to attend in the future.
- Andrew Kambour discussed next steps for preparing a joint letter. In the past, NGA has drafted the letter and then sent it to the intergovernmental groups for review. Mid-December was agreed upon as a target for a draft of the letter. The target audience will be both DOE and Congress, with the central message being to make the case for the necessity of adequate EM funding.

[Meeting Adjourned]