

INTERGOVERNMENTAL MEETING WITH THE U.S. DEPARTMENT OF ENERGY DECEMBER 8-9, 2004

EXECUTIVE SUMMARY

Original meeting presentations and materials can be found at: <http://www.fftcleanupnews.org/meetings.htm>

Ambassador Linton F. Brooks, Administrator of NNSA: Keynote Speaker, *opened the plenary session of the Intergovernmental Meeting with a brief talk on his agency's progress and the outlook for 2005.*

- NNSA shares the desire to have local economies flourish— ensuring that communities are strong in the long term. Mr. Brooks emphasized the theme of building partnerships.
- NNSA will focus on three areas in 2005:
 1. Reestablishing the credibility of the Los Alamos National Laboratory (LANL)
 2. Continuing to promote contract reform incentives (to encourage innovation, outsourcing, and creative ways to promote small business)
 3. Improving safety and security oversight by rebuilding a cadre of security professionals and by using new technology.
- NNSA will release a formal **RFP for LANL** by the end of January 2005.
- NNSA will take over **environmental duties** for legacy waste on 10/1/06 at all NNSA sites except Y-12 and LANL. Alice Williams will be overseeing the new office created for this effort.
- Tribal representatives expressed concern about a lack of government-to-government consultation.

Paul Golan, Acting Assistant Secretary, Office of Environmental Management, US DOE *presented a progress report on EM's initiatives in 2004.*

- EM will continue to be guided by three principles in 2005:
 1. Safety for workers
 2. Protection of the environment
 3. Respect for the taxpayer
- The appropriations for FY'05 are at a peak in terms of cleanup funding.
- DOE-EM met most of its performance measures (except tank closures) in FY'04.
- A sustainable program needs broad support — and the challenge is to finish the job on our generation's watch.
- The outcome of the RBES Workshop in Chicago:
 - A letter from Mr. Golan to all workshop participants outlining **eight principles** for achieving the goal of the End States initiative.
 - A memo from Mr. Golan to the site managers regarding End States Vision Documents.
- EM is in the information gathering phase re: Natural Resource Damages and related issues.

PANEL: End States—Outcome of Chicago Workshop and What's Next

Moderator: Doug Frost, DOE. Panelists included: Kara Colton, NGA; Bob Goldsmith, DOE-EM; Jim Woolford, US EPA Headquarters; Tom Winston, NGA/STGWG/EMAB/Ohio EPA; David Abelson, ECA/Rocky Flats Coalition of Local Governments; Willie Preacher, STGWG/Shoshone-Bannock Tribes.

- Ms. Colton reviewed key recommendations on End States resulting from the Chicago workshop
- Mr. Goldsmith emphasized that DOE is slowing the End States initiative down and reviewed the status of vision documents at seven sites (**Fernald's** vision document has three alternatives. **Hanford** expects

to finish a version in mid May 2005. **Idaho** plans to submit a document in May 2005. **Oak Ridge** has three alternatives and will send their vision document to DOE soon. **Paducah** is due to send a version in January 2005. **Rocky Flats** does not have a vision document – they are using a conceptual site model that will be completed for the transition to the Office of Legacy Management (LM). **Savannah River** has not set a date for its vision document).

- DOE is asking the sites to determine which issues are of “national importance.”
- EPA is supportive of Paul Golan’s November 8th letter to the workshop participants. EPA feels that long-term stewardship (LTS) considerations cannot be separated from the issue of end states.
- Mr. Winston agreed that LTS issues ought to be on the table whenever End States are discussed. He advocated a pragmatic, collaborative process that takes into account local issues and priorities.
- Mr. Abelson explained past miscommunications between DOE and the sites on end states. He said more investment should be made on the “visionary” part of the process in consultation with community members.
- Mr. Preacher noted that public participation means being inclusive and maintaining constant communication. He indicated that some potential end states, e.g., leaving contamination in the soil surrounding a decommissioned building, are unacceptable to his tribe.

Report from Office of Civilian and Radioactive Waste on Yucca Mountain

Jim Owendoff, Associate Director of Integration, Office of Civilian and Radioactive Waste.

- The license applications by Bechtel and SAIC for the Yucca Mountain project are in draft form.
- The key technical issues in the drafts have been “addressed.”
- The Caliente Corridor is the chosen rail route to Yucca Mountain.
- The funding profile for the Yucca Mountain project from 1995-2005 was illustrated.

Presentation—Natural Resource Damages Approaches

Moderator: Paula Cotter, NAAG. Panelists included: Eli Reinharz, Ecologist, NOAA Damage Assessment Center; Vicki Peters, Colorado Attorney General’s Office; and Matt Duchesne, DOE-EM.

- Ms. Peters explained several fundamental legal definitions and concepts regarding NRDA based on federal law (CERCLA and the Oil Pollution Act).
- Mr. Reinharz explained the costs, definitions, and forms of the cooperative assessment approach, including steps and mechanisms to achieving a reasonable approach, examples of the cooperative approach, and potential benefits and drawbacks of the approach.
- Matt Duchesne is the contact for DOE-EM on NRDA issues.

PANEL DISCUSSION: Avoiding Gridlock: Obstacles to Waste Disposition

Moderator: Bill Ross. Panelists included: Jerry Boese, Ross & Associates; Mike Wilson, Washington State Department of Ecology; Cynthia Anderson, DOE Office of Federal Disposition Options; Christine Gelles, DOE Office of Commercial Disposition Options; and Dennis Ashworth, DOE Office of Transportation.

- Mr. Boese outlined the history and status of DOE waste management efforts, and summarized a number of issues including:
 - Orphan waste
 - Barriers to disposition
 - Difficulty in seeing the big picture due to lack of data
 - SSAB Chairs’ letter to DOE calling for a national forum to address “gridlock” that could adversely affect cleanup.
- Mr. Wilson said the erosion of DOE’s transparency in recent years helped motivate the activists’ ballot initiative (I-297) recently approved by Washington’s voters.

- Washington State supports the idea of a national forum on waste management, as suggested by the SSAB chairs.
- Ms. Anderson and Ms. Gelles discussed:
 - Current waste disposition challenges
 - The status of waste management sites
 - DOE-EM's current waste disposition strategy
- Mr. Ashworth addressed EM's transportation-related missions and initiatives including:
 - State-specific hazardous waste manifests
 - Distribution Risk Reduction Support
 - Transportation Regulatory Support
 - Site Support and Logistics
 - Emergency Preparedness and Outreach
- Mr. Ashworth announced a TransCAER meeting is planned for '05 and will address stakeholder support and outreach.
- Ms. Gelles expects DOE to call two meetings, one a meeting to discuss "orphan waste" (date TBD) and the second to address waste management.

View from the Hill

Gene Schmitt, DOE-EM, discussed the FY 2005 budget.

- Mr. Schmitt reported on the recently-approved omnibus appropriations bill that included DOE's FY'05 appropriations. Overall, DOE-EM did very well.
- Over the last four years, DOE has successfully changed the perception that EM was a "manpower program."
- DOE got fewer earmarks than last year, though some of the intended earmarks did not get in.
- DOE is fully committed to supporting NGA, the tribes, and STGWG in '05.

Seth Kirshenberg, Executive Director of ECA, also discussed the FY 2005 budget

- For FY'05, EM received about \$7.5 billion. NNSA received \$8.8 billion; LM was given \$46.9 million. The Yucca Mountain request was for approximately \$880 million, off budget; but received \$577 million.
- Future budgets are expected to decrease for EM.
- It's important to realize that DOE competes directly for funding with DoD.

Office of Legacy Management Update

Dave Geiser, Office of Legacy Management, Policy and Site Transition (LM-40), provided a progress report on DOE-LM.

- LM is fortunate to have the funding and resources needed.
- LM has three categories of sites coming in
 1. FUSRAP sites cleaned by the Army Corps of Engineers
 2. Uranium Mill Tailings Radiation Control Act sites
 3. EM sites or unique sites
- EM and others are handing over the sites.
- 3 sites transferred to LM during the year – primarily for record-keeping responsibilities.
- 40 sites are coming to LM in during FY'05-'07 and DOE-LM is using the "site transition framework" and several sites are preparing *site transition plans*.
- LM will pick up additional sites over time as these sites no longer have a future DOE missions.
- LM will build a standalone records management facility. Recordkeeping and information technology (IT) issues are turning out to be the most important and difficult for LM.
- Congress authorized three local stakeholder organizations, but only funded the LSO for Rocky Flats.

Panel Discussion: Long-Term Stewardship

*Moderator: **John Sandoval**, State of Idaho. Panelists included: **Arnie Edelman**, DOE Office of Science; **Dave Geiser**, DOE Office of Legacy Management; **Bob Goldsmith**, Office of Environmental Management; **Debbie Swickow**, DOE Office of Nuclear Energy, Science & Technology.*

- Panelists addressed a series of questions provided prior to the meeting
- LTS consists of:
 1. LTS & M
 2. Resource management
 3. Records & information management
- LM devotes 10% of its budget to local governments, states, tribes, and the NRC for oversight.
- Roles and responsibilities are determined on a site-specific basis within the provisions of CERCLA, UMTRCA, and RCRA.
- Dave Geiser said GSA policy is to avoid the use of real estate instruments on federal property. In the case of Rocky Flats and Weldon Spring, DOE has tried to embody the objectives of the realty instrument into the text of the agreement for the site.
- Regarding the Uniform Environmental Covenants Act (UECA), Geiser noted that the UECA itself is silent on how it applies to federal property. Current policy is to extract the value of the real estate vehicle in question and insert it into a site agreement.
- DOE does use the “defense in depth” principle, but must be sure that a remedy is appropriate and not perceived as the “Cadillac” option.
- Regarding the “rolling stewardship” concept, Dave Geiser said the phrase came from members of a NAS committee – from the premise that you cannot predict what will happen in 100 years. DOE does site reviews and annual reviews that take this kind of future planning into account, he said. (Copies of the paper describing rolling stewardship can be found at <http://www.fffcleanupnews.org/documents/rollingstewardship1999.pdf>).