

**NGA Federal Facilities Task Force Conference Call
State Based Cleanup Programs & Long-Term Stewardship
September 14, 2005**

NGA Federal Facilities Task Force Members
and associated state representatives:

- ID – Bob Bullock
- NV – Don Elle
- TN – John Owsley
- MO – Bob Geller
- WA – Laura Cusack, Jane Hedges, Mike Wilson
- NY – Paul Piciulo
- OH – Tom Winston
- SC – Shelly Sherritt

National Governors Association:

- Kara Colton

Ross & Associates:

- Jerry Boese, Eli Levitt

U.S. Department of Energy

- Dave Geiser, LM
- Robert Barney, LM
- Doug Frost, EM
- Tony Carter, LM
- Ray Plienness, LM

PURPOSE OF CALL: To continue the discussion between Dave Geiser and the Task Force about responses (sent in February 2005) to his questions regarding state superfund cleanup programs.

Dave Geiser welcomed members of the Task Force and noted that there are benefits in learning about state superfund cleanup activities. He thanked the four states who responded and added that he hopes these conference calls will promote two-way discussions. The group then reviewed some of the questions Mr. Geiser posed to the group.

Question 1: How many Superfund sites (federal and non-federal) do you have in your state (in, or adjacent to, your government jurisdiction for local governments or reservations/properties for tribal nations)?

- John Owsley (TN) said their response depends on how you categorize the cleanup sites, especially inactive sites. In TN, a newly reorganized division, the Division of Remediation, recently took over work at these sites. The state has been working diligently on voluntary cleanups; the property owner does as much cleanup as possible and the state agency inspects the site. There are currently 20 federal superfund sites in Tennessee.
- Dave Geiser asked if it would be beneficial to invite the head of the TN Division of Remediation to speak with the Task Force. John Owsley said this is a possibility, and noted that the state would want to discuss its key issues: enforceable agreements and assured funding.
- Shelly Sherritt (SC) said cleanup in SC is organized much like it is in TN. The state would actively manage a Long-term Stewardship (LTS) site as a last measure. SC prefers to have an oversight role and have DOE as the actual manager. On the other hand, information sharing for the community (making a database available to the public on Institutional Controls (ICs)) is a high priority for the state and community.
- Shelly Sherritt mentioned that the Environmental Council of the States (ECOS)/ Department of Defense (DoD) Sustainability Workgroup has a subcommittee on Institutional Controls (ICs). Dave Geiser noted that Tom Adams of DOE-EM attended the recent ECOS meeting in Maine and he would ask him for an update.
- Shelly Sherritt suggested that DOE compare notes with DoD on this subject. Dave Geiser replied that DoD tends to hand over their sites to others, but DOE is not able to hand over many disposal sites. Shelly continued: she has worked on a site transfer with a disposal cell on it – it is good to compare

notes on ICs regardless of who ends up managing the site, and it is helpful to look at some of the steps DoD takes to implement ICs in the long term.

Question 2: How many of those Superfund sites have been remediated and are in a surveillance and maintenance mode?

- Bob Geller (MO) said that there is only one such site in MO — Weldon Spring. Dave Geiser mentioned that he asked EPA Region 7 to share any best-in-class surveillance and maintenance examples and was surprised when they said they did not have any. Bob Geller noted there are no other sites in MO that compare with the Weldon Spring site in terms of scope. There were a few other sites with caps, but they are not comparable to Weldon Spring.
- Dave Geiser emphasized that he has asked EPA at the regional level and at the national offices for federally approved surveillance and maintenance plans; there are none they are willing to provide. Bob Geller replied that one can also look at RCRA post-closure care permits for examples.
- Regarding best-in-class examples of surveillance and maintenance plans, John Owsley offered to share Land Use Control Implementation Plans (LUCIPs) from TN. Bob Geller said DOE already has the Weldon Spring plan. Laura Cusack (WA) added she would try to find the plan for the 300 area at Hanford. Shelly Sherritt, Laura Cusack, and other participants agreed to look for state level surveillance and maintenance plans to share with Dave in the near future.

Question 3: What role(s) do the State or local governments have for those sites that have been remediated and are in surveillance and maintenance?

- Dave Geiser noted that some local governments are very active and some are hands off. Tom Winston (OH) said there is no standard and OH would not fund a local group unless the state is the owner of the site and the responsible party; local groups are funded by Potentially Responsible Parties (PRPs) or they are self-funded. The state government's philosophy is to involve the locals to the extent that they want to be involved; the state cannot force locals to be stewards. He noted local governments in some instances are mainly involved because of their interest in economic development. Local government employees hesitate to enter waste disposal debates (partly due to the time commitment and the complexity of the issues).
- Shelly Sherritt agreed with Tom Winston. The SC state government prefers to have the responsible party do the cleanup. She emphasized that local governments should have good access to information on ICs and land restrictions in their area. They need quick and easy access to this kind of information for construction, zoning etc.
- Dave summarized his sense of the conversation that states focus on having PRPs carry out cleanup and surveillance and maintenance activities, and local government interest and involvement varies widely. Tom Winston added smaller sites have not needed robust long term stewardship plans. Bob Geller said MO often invites local groups or governments to join in memorandums of understanding (MOUs).

GIS systems

- Ray Plienness asked if states have helped with Geographic Information System (GIS) programs that identify land use and/or ICs.
 - MO — yes.
 - WA — working on GIS projects with local groups.
 - OH — having passed the Uniform Environmental Covenants Act, OH is moving in that direction.
 - SC — has intentions to move forward on GIS work, but they are not close to having a system running. Shelly Sherritt said DOE and ECOS have worked on a project in Emeryville, CA. Bob Bullock volunteered to ask Jon Sandoval about this research.
 - TN — interested in GIS, but they have not implemented a program.

- Dave Geiser commented that EPA had an initiative on GIS systems that map ICs.
- Dave Geiser mentioned that a Geospatial Environmental Mapping System (GEMS) has been demonstrated at Citizen Advisory Board (CAB) and State and Tribal Government Work Group (STGWG) meetings. He asked if anyone is aware of GIS programs that illustrate state-based IC controls. Tom Winston indicated that he would be interested to hear back about projects like this – they are trying to push for new GIS work in OH.

Funding for LTS

- Dave Geiser asked whether any state had a set-aside fund for LTS activities. He is already aware of the fund associated with the Barnwell site in SC. Jane Hedges said there is a Perpetual Care Fund in WA – she can get a copy of state regulations on the fund and send them to Kara Colton for distribution. John Owsley indicated there is a perpetual care fund associated with a CERCLA disposal cell at Oak Ridge.
- Dave Geiser questioned: how many states have something like WA? John Owsley reminded us that RCRA rules allow tipping fees. Dave Geiser advised states with set-asides to talk about them with Congress.
- Bob Bullock said that RCRA (under 40 CFR) has a number of “financial assurance” options, some are better than others, and it is a good model to start with because it has worked for 30 years or longer.
- Shelly Sherritt noted that state legislators borrowed from their funds in SC and promised to pay the money back later. Jane Hedges noted that WA has had a similar problem with “raided” funds. John Owsley noted that in TN, DOE is required by law to agree with any expenditure for which the state would want to use the dollars; they can only be used for management and maintenance of on-site facilities.
- Washington noted they have two types of funds: a Closure Fund (the state legislature borrowed from this with a promise to repay the loan) and a Perpetual Care and Maintenance Fund.

Next Steps

- All participants agreed to look for good state level LTS plans and surveillance and maintenance plans as available.
- Dave Geiser will follow up with Tom Adams re: the last ECOS meeting (specifically the IC Subcommittee).
- Shelly Sherritt and Dave Geiser both agreed to look into the ECOS Sustainability Workgroup’s Subcommittee on ICs, specifically what they have produced and how the information can be shared.
- Laura Cusack agreed to find and share the surveillance and maintenance plan for the 300 area at Hanford.
- Bob Bullock will discuss the Emeryville, CA GIS project with Jon Sandoval of ECOS.
- Jane Hedges will provide a copy of WA State regulations for the Perpetual Care Fund.