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DATE: JUL 09 1987

REPLY TO
ATTN OF: RW-223

SUBJECT: Commitments and Highlights of the Las Vegas DOE Meeting with States and Indian Tribes

TO: Distribution

I want to extend my personal thanks to all of you who attended the Department of Energy (DOE) Meeting with States and Indian Tribes held in Las Vegas, Nevada, May 28, 1987.

In my judgment, the meeting provided a highly useful forum for exchanging information and views on the status of the civilian radioactive waste management program.

I was pleased to have available as a handout the Office of Geologic Repositories' proposed master calendar of DOE Meetings with States, Indian Tribes, the Nuclear Regulatory Commission, and other parties for the coming year. Your positive response to receiving the calendar on a monthly basis is appreciated.

My special thanks to those who provided information displays at the meeting. I hope to see more displays at future meetings.

Attached are the commitments and highlights of the Meeting. I look forward to your continuing contribution at future meetings.

If you have any questions or comments, please contact Judy Leahy at (202) 586-8320.

Stephen H. Kale
Associate Director for
Geologic Repositories
Office of Civilian Radioactive
Waste Management

Attachment

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DOE Meeting with States and Indian Tribes Distribution List:

P. Alexander, Nez Perce Indian Tribe	M. Later, State of Utah
J. Anttonen, DOE-PO/BWIP	J. Leahy, DOE-HQ/OGR
H. Aronson, Aronson & Associates	D. Lettig, Yakima Indian Nation
A. Barros, Nez Perce Indian Tribe	R. Loux, Jr., State of Nevada
A. Benson, DOE-HQ/OGR	E. Lundgaard, DOE-PO/NNWSI
W. Bishop, WA-DOE	L. Marks, DOE-HQ/OSTS
G. Black, State of Oregon	B. Martin, Hall & Associates
M. Blazek, OR-DOE	S. Martin, State of Mississippi
H. Bohlinger, State of Louisiana	L. McClain, DOE-PO/SRPO
J. Bresee, DOE-HQ/OGR	C. McDavid, WESTON
G. Bronson, CTUIR	A. McDonough, DOE-HQ/OGR
M. Brown, Rockwell Hanford Operation	R. Moffett, Nez Perce Indian Tribe
W. Burke, CTUIR	M. Murphy, Duryea, Murphy
L. Calkins, CTUIR	R. Mussler, DOE-HQ/OGC
G. Chehak, NCAI	J. Neff, DOE-PO/SRPO
F. Cook, NRC	T. Novak, State of Washington
S. Crowe, Yakima Indian Nation	B. Oliver, State of Utah
R. DeVille, State of Louisiana	M. Olsen, SAIC
L. Dick, CTUIR	R. Palm, State of Nevada
B. Dixon, State of Oregon	J. Palmer, State of Mississippi
W. Dixon, DOE-PO/NNWSI	J. Parker, State of Washington
B. Easterling, DOE-HQ/OPO	R. Patt, State of Oregon
R. Forsythe, State of Mississippi	E. Patten, Facilitator
B. Foster, NCSL	C. Peabody, DOE-HQ/OGR
J. Friloux, State of Louisiana	H. Penney, Nez Perce Indian Tribe
S. Frishman, State of Texas	M. Powell, DOE-PO/BWIP
B. Gale, DOE-HQ/OGR	M. Power, State of Washington
R. Gale, DOE-HQ/OPO	P. Prestholt, NRC
D. Gassman, DOE-PO/WMPO-NV	W. Probst, DOE-HQ/OGR
J. Gervers, LATIR	D. Provost, State of Washington
K. Goodmiller, GAO	D. Quaempts, CTUIR
K. Gover, Nez Perce Indian Tribe	B. Reilly, SAIC
J. Green, Jr., State of Mississippi	J. Reuben, Nez Perce Indian Tribe
C. Greene, Nez Perce Indian Nation	W. Rogers, CERT
G. Greene, Nez Perce Indian Nation	S. Rousso, DOE-HQ/ORM
R. Halfmoon, Nez Perce Indian Tribe	C. Runyon, NCSL
D. Hancock, Southwest Research	J. Saltzman, DOE-HQ/OPO
B. Hanson, GAO	W. Scharber, State of Tennessee
V. Harrison, Nez Perce Indian Nation	B. Schine, DOE-HQ
M. Henry, Nez Perce Indian Tribe	J. Schmidt, State of Nevada
M. Herwick, SAIC	C. Scott, Nez Perce Indian Nation
D. Hester, CTUIR	L. Shaw, WESTON
R. Hilley, DOE-HQ/OSTS	J. Siegel, AIF, Inc.
R. Holden, NCAI	R. Siek, Council of Energy Resource
J. Hovis, Yakima Indian Nation	A. Slickpoo, Nez Perce Indian Tribe
N. Hovis, Yakima Indian Nation	J. Solorio, State of Nevada
D. Hoyle, AIF, Inc.	W. Spell, State of Louisiana
T. Husseman, State of Washington	L. Spruill, State of Mississippi
J. Hutchins, CERT	R. Stein, DOE-HQ/OGR
T. Isaacs, DOE-HQ/OGR	L. Steinmann, State of Washington
R. Jim, Yakima Indian Nation	D. Stevens, David W. Stevens, Inc.
C. Johnson, State of Nevada	L. Stevenson, WESTON
R. Kaiser, DOE-PO/NNWSI	D. Stewart-Smith, OR-DOE
S. Kale, DOE-HQ/OGR	N. Still, NRC
F. Khattat, BIA	R. Storey, State of Utah
G. King, DOE-HQ/OPO	H. Swainston, State of Nevada
K. Klein, DOE-HQ/OSTS	D. Tahkeal, Yakima Tribal Council
J. Knight, DOE-HQ/OGR	E. Tana, NRC
S. Kraft, EEI	B. Taylor, BIA
F. Kugzrak, Nez Perce Indian Nation	D. Tousley, Harmon & Weiss

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DOE Meeting with States and Indian Tribes Distribution List: (continued)

D. Vieth, DOE-PO/NNWSI
T. Webster, Indian Health Services
J. Wesley, DOE-HQ/OGR
C. West, DOE-PO/NNWSI
D. White, Nez Perce Indian Nation
M. Whitman, Consultant
M. Wilder, State of Washington
D. Wilson, Nez Perce Indian Nation
J. Wisniewski, DOE-HQ/CP
J. Wittman, Yakima Indian Nation
D. Wolfe, CTUIR
B. Yallop, Yakima Indian Nation

7/09/87

HIGHLIGHTS

DOE MEETING WITH STATES AND INDIAN TRIBES MAY 28, 1987 LAS VEGAS, NEVADA

INTRODUCTIONS

Steve Kale, DOE-HQ, welcomed the attendees and explained the purpose of the meeting. He was interrupted by a woman who delivered a singing telegram expressing opposition to the selection of Yucca Mountain. A representative of Washington State presented Kale with a cake commemorating the first anniversary of the recommendation of sites for characterization on May 28, 1986. Kale then introduced the moderator for the meeting, Eva Patten.

Patten explained the format of the meeting and asked for comments on the agenda. A representative of Nevada said States and Indian Tribes had asked DOE in their comments on the draft agenda to move the Mission Plan discussion to the beginning of the agenda, and asked why DOE had not done so. Several other State and Indian Tribal representatives agreed. A DOE representative replied that the Department wanted to discuss the SCP early in the meeting since its plans for the coming year largely focused on the SCP. After further discussion, DOE agreed to move the Mission Plan Amendment to the beginning of the agenda.

MISSION PLAN AMENDMENT

Comments on Draft Amendment

Roger Gale, DOE-HQ, reported on the status of the final Mission Plan Amendment and DOE's response to comments on the Draft Amendment. DOE has received 58 sets of comments on the draft Amendment, which was sent to States and Indian Tribes on January 28, 1987. The comment response document that will accompany the final Amendment identifies approximately 600 individual comments. Gale indicated that most of the comments addressed the first repository schedule, postponement of the second repository, DOE's proposal for a monitored retrievable storage facility (MRS), consultation and cooperation, and the waste acceptance schedule. He added that two issues of special concern are the budget and proposed legislation. The proposed budget for FY '88 is \$725 million, and the program described in the Mission Plan Amendment assumes this amount. Some 20 bills or amendments to existing legislation have been proposed in Congress this session, but hearings have been held only on the Johnston-McClure Bill, SB 839. In addition, Senators Breaux and Simpson have asked DOE to submit proposed legislation on the MRS, which DOE is now drafting.

Gale informed States and Indian Tribes that they would receive the final Amendment in one or two weeks. He said the final Amendment does not differ fundamentally from the draft, but noted that the comments of the Nez Perce Tribe on consultation and cooperation were especially good. The transmittal letter to Congress will define what kind of affirmative action DOE seeks from Congress on the Amendment.

Second Repository

Kale summarized the status of the second repository program as described in the final Mission Plan Amendment. The Amendment explains DOE's reasons for postponing site-specific work in crystalline rock in May 1986 and proposes the following schedule for the second repository:

1995	Begin national survey
2003	Identify potentially acceptable sites
2017	President designates a single site
2025	Begin operations

DOE will follow this schedule if Congress takes affirmative action on the final Amendment. If Congress does not take action on the Amendment, DOE will resume investigations of crystalline rock sites where it left off in May 1986. In this case, DOE proposes the following schedule:

1989	Issue Final Area Recommendation Report
1994	Nominate and recommend sites for characterization
2001	President designates a single site
2010	Begin operations

A State representative said that when the Secretary postponed the second repository program, he indicated no sites were under active consideration, and asked at what point DOE would begin the program again. A DOE spokesman repeated that the Department would pick up where the Draft Area Recommendation Report left off if Congress does not take affirmative action on the Amendment, but would begin with a new national survey if the Department resumes the program in 1995, as proposed in the Amendment. A State spokesman said there was an understanding at the beginning of the second repository program that DOE would investigate a variety of rock types, not just crystalline rock, and that DOE should not commit itself irrevocably to crystalline rock. The DOE representative replied that sites in other rock types would also be eligible for the second repository.

MRS

A State representative asked what parts of the Nuclear Waste Policy Act (NWPA) need to be changed to accommodate DOE's MRS proposal. A DOE representative replied that no changes are needed. The State representative then asked whether the legislation DOE plans to propose in response to the request from Senators Breaux and Simpson will affect the NWPA. The DOE representative said he did not know since DOE has not drafted the proposed legislation, but he added that the proposal would be consistent with the MRS proposal DOE submitted to Congress.

Budget Request

A State representative said there was still confusion about DOE's budget request; the Mission Plan Amendment proposes a \$725 million program, while DOE has requested \$500 million from Congress for FY '88. DOE replied that the Administration is requesting \$725 million, including a \$225 million supplemental request. Another State representative said that no one knows what the \$500 million program is. A DOE spokesman replied that the cost of the program is a budget issue, not a Mission Plan issue, and that every Federal program faces uncertainties in planning its budget. The State

representative then said that DOE has made the budget a Mission Plan issue by submitting the Amendment, and he asked what Congress would be funding at the \$500 million level. A Departmental representative said DOE cannot judge what Congress will do, but that the program would be delayed if the full amount of DOE's request is not funded. The State spokesman said DOE needs to specify what it will do if Congress does not appropriate the full \$725 million.

Waste Acceptance Schedule

A State representative said DOE needs to be candid about how the waste acceptance schedule would be affected by delays in the program, and that the schedule in the Amendment does not do this. DOE replied that the NWPA intends for the Department to begin accepting waste in 1998. A State representative suggested that utilities have a right to know what the alternatives are if Congress does not approve DOE's proposal. DOE indicated it will make detailed projections for accepting spent fuel in 1991, at which time the Department will address specific utilities' fuel storage problems. Another State spokesman questioned the effect of adjustments in the waste acceptance schedule on DOE's contracts with utilities. A DOE person said the contracts are predicated on DOE's making a good faith effort to accept fuel in 1998, and that the Department cannot be held liable if Congress doesn't approve its budget request. A State representative asked how storage of waste in an MRS would constitute disposal. DOE replied that the history of the NWPA suggests disposal refers to the waste disposal system, not simply an underground repository, but the State spokesman disagreed, saying that disposal in the NWPA means placement in a repository.

Consultation with States and Indian Tribes on Amendment

A State representative said DOE's handling of the Mission Plan Amendment was the "ultimate example" of why Congress withheld \$79 million of DOE's FY '87 budget request, and that "if this is consultation, you're looking at a different dictionary than me." After pointing out that DOE sent the draft Amendment to Congress before sending it to States and Indian Tribes for comment, and that there are no significant changes in the final Amendment in response to their comments on the draft, he suggested that States and Indian Tribes had "wasted their time" commenting on the draft. A DOE representative replied that the Department had suggested in February that DOE meet with States and Indian Tribes in Kansas City to discuss their comments on the draft Amendment, but that the affected parties preferred to discuss the Amendment at the Quarterly Meeting held in Spokane, Washington, on February 12. The State representative asked what DOE, States, and Indian Tribes could have done in Kansas City that they did not do in Spokane. The DOE representative said that the Department's efforts to consult with the affected parties were rejected, and that DOE had laid out in the Amendment its broad view of what the program should look like. The State representative said DOE had made the basic policy decisions before submitting the draft Amendment to Congress.

Exploratory Shaft Facility at Hanford

The relationship between the hydrology testing program planned for Hanford and the exploratory shaft was discussed at length. A State spokesman said DOE wrote in the draft Amendment that it intends to begin the exploratory shaft facility (ESF) at Hanford in FY '88, but that the Secretary had testified to Congress that the hydrology test program, which must precede the ESF, will not be completed before June 1989. In view of this schedule, he asked why the budget request for FY '88 includes funds for the ESF. He pointed out that Ben Rusche testified to Congress that DOE's request for \$725 million for FY '88 included funds for the ESF at Hanford, but that staff from DOE's Richland Office told the State's program advisory council that drilling would begin in June 1989, after the hydrology test program is completed.

A DOE representative confirmed that a hydrology baseline must be obtained before any shaft drilling can start which might perturb the collection of hydrologic data. Thus, there are no current plans to begin drilling of the exploratory shaft in FY '88. However, he explained that DOE is considering drilling through alluvium to the top of the first basalt sequence, and that DOE will consult with independent experts to assess, among other issues, whether drilling through the alluvium above the basalt horizon would perturb the hydrology data base. He added that DOE intends to consult with the State, and that no decision has been reached on whether to proceed with the shaft. The State spokesman asked if there is any evidence in writing to support this claim and whether the proposal will be in the Final Amendment. The DOE representative replied that the HQ guidance to the Project Office required consultation as part of the evaluation and that the draft Mission Plan Amendment noted that the drilling to top of basalts was an alternative under consideration. Further, this evaluation was a normal engineering contingency.

Another State representative said the issue is that DOE's "programmatic intent overrides science," and moreover, that the task group which is developing the hydrology test plan has not consulted with the State, and that the schedule for the hydrology test plan is very optimistic. A DOE spokesman agreed that the schedule is on a "fast track" but added that the Department has responsibilities to the NWPA, but will ensure that there are consultation points in the schedule. The State representative responded that the schedule did not build in opportunities for consultation with the State, and alleged that DOE is not paying attention to its scientists.

An Indian Tribal representative asked how the hydrology testing program fits into the FY '88 budget request. The DOE representative said it had not finalized the testing program when the Mission Plan Amendment and budget proposal were developed. The Tribal representative then asked what information DOE used in deciding to begin the ESF before the testing program is completed, and what information demonstrated that the shaft would not perturb the hydrology data base. The DOE spokesman said the Department had not made a decision on proceeding with the exploratory shaft sinking and a decision will not be made until the results of the hydrology task group is completed.

Other Issues

Participants then discussed a variety of other issues associated with the Mission Plan Amendment. A State representative asked whether DOE has made clear in its budget request that the Department may need approximately \$60 million over and above its \$725 budget request to fund a renewed second repository program (if Congress does not take action on the Amendment) and the procurement of a systems engineering and development (SE&D) contractor. A DOE representative noted that DOE's \$725 million budget request did include funds for procurement of the SE&D contractor and was put together on the basis of an optimum program plan.

A State spokesman asked whether DOE had developed a formal process for periodically reviewing the Mission Plan, to which a DOE representative replied that the Department is committed to reviewing the Plan every year to see if changes are needed to reflect major policy developments.

Returning to the issue of consultation with States and Indian Tribes on the Amendment, a State representative asked how their comments on the draft Amendment could have been incorporated in view of the fact that the Secretary and others were defending the draft Amendment in testimony before Congress. A DOE representative said Congress cannot be ignored and that the Department had advised Congress not to act on the Amendment until States and Indian Tribes had reviewed it. The State representative disagreed, pointing out that DOE provided the original Mission Plan to States and Indian Tribes before submitting it to Congress, and that in the NWPA Congress directed DOE to consult with affected parties. Another State spokesman said DOE has been defending the Amendment before Congress for three months, with no acknowledgment of State and Indian Tribal comments.

REVIEW OF COMMITMENTS FROM SPOKANE QUARTERLY MEETING

Barry Gale, DOE-HQ, suggested that the group review a memo in the reference package on the status of commitments from Quarterly Meetings held in Spokane, Washington, and Portland, Oregon. DOE agreed to carry over commitment 12 from Portland, and 2, 4, and 12 from Spokane. SEE LAS VEGAS COMMITMENTS 1, 2, and 5.

COORDINATING GROUP MEETINGS

Barry Gale summarized changes to the master calendar of DOE meetings with external parties and asked for comments. The calendar should be corrected as follows: (1) the NRC-DOE meeting scheduled for the third week in June will not occur, (2) the meeting of the Geoscience Coordinating Group scheduled in July will actually occur in September, and (3) the proposed location for the next meeting of States and Indian Tribes is Dallas, not Seattle. Ginger King, DOE-HQ, announced the dates of several upcoming Congressional hearings:

June 2	Senate Environment and Public Works Committee, Subcommittee on Nuclear Regulations
June 11	House Committee on Energy and Commerce, Subcommittee on Energy and Power
June 18	Senate Environment and Public Works Committee, Subcommittee on Nuclear Regulations

A State representative asked whether the Technical Code Coordinating Group had met the previous week, and said that the State had not been notified as DOE had previously agreed to do. DOE confirmed that the meeting had occurred and apologized for not giving proper notice to States and Indian Tribes. SEE COMMITMENT 3.

Another State representative thanked DOE for developing the master calendar and said the States and Indian Tribes looked forward to receiving monthly updates. In response to State requests, DOE agreed to provide the States and Indian Tribes summary information on the purpose of the coordinating groups and the charters, when available. SEE COMMITMENT 4.

Nez Perce Comments on Consultation and Cooperation

Returning to discussion of the Mission Plan Amendment, an Indian Tribal representative said DOE had indicated it generally endorsed the Tribe's comments on consultation and cooperation in the Draft Amendment. Among the comments were five suggested principles for consultation between DOE and affected parties. He asked whether DOE would commit to the principle of providing major policy documents to States and Indian Tribes before releasing them as drafts to other parties. A DOE representative said the Department could not commit to a blanket release of draft documents, but that it was willing to discuss the issue. The Indian Tribal representative asked whether DOE had consulted with other affected parties on the Tribe's suggested principles, to which DOE replied that the Department sought "amplification" of the Tribe's suggestions.

Questions from Public

The moderator then queried the group to see if there were any questions from the public. There were no questions.

SCP ACTIVITIES AND PLANS

After noting that the Interagency Coordinating Group had been terminated at NRC's request, a DOE representative summarized progress in preparing site characterization plans for Yucca Mountain and Hanford. (A copy of the SCP presentation was provided at the meeting.)

In response to questions from State representatives, a DOE representative said that no on-going activities at Yucca Mountain were prohibited by a Stop Work Order, and that the SCP for Yucca Mountain is about two weeks behind schedule.

After breaking for lunch, participants resumed discussion of the SCP. A DOE spokesman said it intends to provide to the extent possible SCP study plans which pertain to the exploratory shaft construction six months before the SCP is released. A State representative said it was important for States and Indian Tribes to comment on the SCP before beginning the ESF, and asked how States and Indian Tribes will comment on the shaft at Hanford. The DOE representative replied that the entire program will be described in the SCP, and that construction on the ESF will not begin until the SCP is released. The State representative then asked if DOE would complete the hydrology study program before sinking shafts. The DOE representative said the drilling would

not proceed if studies suggested shaft-sinking would disturb the data base. He added, in response to a follow-up question, that DOE may print the SCP before the hydrology task group completes its review of conditions at Hanford, but that DOE would consider changing its plans as warranted by results of ongoing investigations.

A State spokesman asked if States and Indian Tribes will have additional time to review the draft SCP if the task group issues its report after release of the draft SCP. A DOE representative said there would be consultation on the task group activities, and he agreed to provide the "charge" for the task group to States and Indian Tribes and to consider whether they could participate as members of the task group. SEE COMMITMENTS 6 AND 7. Participants then discussed whether States and Indian Tribes would be bound by the outcome of task group deliberations, i.e., to agree with the consensus of the task group. DOE maintained that all participants in the task group are expected to proceed in a collegial manner and hopefully the results of the task group represent consensus.

Another State representative asked what the relation is between the SCP quality assurance (QA) program and the on-site QA program. A DOE spokesman explained that the SCP describes the QA program for each test, and that data needed for licensing must be "quality level 1." In response to a follow-up question, DOE said the QA program at each site complies with 10 CFR 60. The State representative asked if the QA program at HQ complies with 10 CFR 60, and indicated, in response to a clarifying question from DOE, that the State had outlined deficiencies in the Headquarters QA program in meetings of the Quality Assurance Coordinating Group.

A State spokesman asked what DOE considers to be SCP scoping comments and EA scoping comments, in view of the "premature" (1983) scoping hearings. A DOE person said the SRPO Project Manager would provide a matrix showing how comments were classified for the Salt Project.

The State representative then said initial ES Facility designs were 60% complete using "synthetic" data, and he asked why DOE had not sent recent changes in controlled copies of the baseline data base to the States. He referred specifically to a 75-foot change in the elevation of the repository horizon in Texas. DOE agreed to provide a status report on the 75-foot elevation change and other changes in the baseline pertaining to the ESF, and to review the process for distributing information concerning changes in the baseline. SEE COMMITMENT 8.

SCP Review Period

Several State and Indian Tribal representatives claimed the 90-day review period for the SCP is inadequate to review a 10,000 page document with more than 2,000 references, and they asked DOE to extend the review period by three months. A Tribal spokesman added that some Indian Tribes do not yet have contractors on board. One person observed that part of the reason for extending the first repository schedule is for DOE to consult with States and Indian Tribes. State representatives agreed that extending the comment review period three months would be an "act of cooperation" on the part of DOE. DOE agreed to consider their request for a three-month extension in the SCP review period. SEE COMMITMENT 9.

A Headquarters representative said DOE has tried to help prepare States and Indian Tribes to review the SCPs by providing draft copies of chapters and by planning to provide briefings when the final Plans are released. A State representative said this advance review would be useful in reviewing the draft SCP, if he could tell where changes had been made from the draft to the final. DOE agreed to consider how to indicate where changes have been made in the final SCP. SEE COMMITMENT 10:

SCP Hearings and Briefings

In Nevada, DOE proposes a briefing and hearing in both Amargosa Valley and Las Vegas. In Washington, DOE proposes both briefings and hearings in Richland, Seattle, and Spokane.

State and Indian Tribal representatives suggested that briefings, hearings, and/or workshops be held in several additional locations:

Pendleton, Oregon	Briefing and hearing
Portland-Vancouver area	Some event, possibly combination briefing/hearing
Toppenish, Washington	Workshop
Lewiston, Idaho	Workshop
Northern Nevada	Briefing and Hearing

In response to questions, DOE explained that briefings are envisioned as interactive events about 30 days after the SCP is released. The public or State and Indian Tribal officials will discuss the SCP with DOE technical staff and contractors in preparation for making comments at more formal hearings, which will follow the briefings. A State spokesman asked for a schedule showing how DOE plans to address public comments, and suggested that DOE consider another round of briefings or hearings before the exploratory shaft is begun to explain the disposition of comments. Another State representative added that State officials need some kind of technical briefing at the same time the SCP is released to prepare for their own, independent workshops and hearings. He further suggested that OCRWM look at the outreach program that DOE Defense Programs developed for the release of the Hanford defense waste EIS. This program had three major elements: (1) staff-to-staff briefings, (2) workshops for the public, and (3) State meetings with the public to clarify public comments on the EIS. DOE agreed to consider States' and Indian Tribes' suggestions and promised that Project Managers would work with affected parties to develop an SCP outreach program. SEE COMMITMENT 11.

A State representative observed that DOE will issue Monitoring and Mitigation Plans and other socioeconomic and environmental documents at the same time as the SCP(s), and suggested that DOE needs to describe the full range of program activities so the public understands the totality of potential program impacts. DOE said the problem is a shortage of resources, but agreed to consider a process for developing an integrated release of various program documents. SEE COMMITMENT 12.

CONSULTATION AND COOPERATION IN MISSION PLAN AMENDMENT

An Indian Tribal representative suggested several specific modifications to the discussion of consultation and cooperation in the Mission Plan Amendment. DOE agreed not to define consultation and cooperation in the Amendment, but to refer instead to past negotiations for C&C agreements under Section 117(c); the possibility of interim and/or partial agreements; and to the fact that generic C&C agreements are not acceptable to States and Indian Tribes. SEE COMMITMENT 13.

The participants discussed at length how DOE, States, and Indian Tribes might work together to define the "informal" consultation and cooperation process outside negotiations for written C&C agreements under Section 117(c). DOE agreed to work with States and Indian Tribes to establish a forum and format by which DOE and affected parties will develop operating principles governing consultation and cooperation. SEE COMMITMENT 14. During the discussion, the State of Washington disagreed with DOE's characterization of the degree of progress in past negotiations for a written C&C agreement, saying it had not agreed to 15 out of 18 provisions in a draft agreement, as stated in the Draft Mission Plan Amendment and indicated in the former Washington Governor Spellman letter to Congress, notwithstanding this difference of views. DOE agreed to revise the Amendment to reflect State comments. SEE COMMITMENT 15. DOE also agreed to contact Indian Tribes for their comments on the Amendment. SEE COMMITMENT 16.

FINANCIAL ASSISTANCE PROGRAMS

Jim Bresee, DOE-HQ, gave a presentation on the schedule and procedures for reviewing State and Indian Tribal grant requests. The procedures reflect DOE's desire to make decisions on grant awards and to resolve disputes as rapidly as possible. States and Indian Tribes asked several clarifying questions and emphasized the importance of quick communications to resolve disagreements, but they expressed skepticism over DOE's ability to make fast decisions on grant requests. One point of special concern is how far in advance affected parties need to submit grant requests to ensure that the flow of funds is not interrupted. DOE indicated that details of the requests for FY '88 needed to be submitted by January 1987, with projections for FY '89 and FY '90 due at the same time. In response to a question, DOE said grant funds have not been subject to the Congressional budget appropriation process.

The Nevada representative asked whether DOE had decided to fund the State's request for funds to develop an environmental baseline for Yucca Mountain. A DOE spokesman said the Department viewed Nevada's request as a proposal, not a formal grant request, and that DOE would respond shortly. The State representative criticized DOE for not providing the names of persons who reviewed the State's grant request, as requested by Governor Bryan. The State's concern is that grant reviewers may be making recommendations about proposals to oversee their own work, which could lead to conflicts of interest. DOE said the anonymity of reviewers is protected by Departmental policy, but that OCRWM would consider a review process under which any part of a grant request which might be rejected on technical grounds would be reviewed twice, at least one of which would be by a technical specialist not directly connected with the equivalent on-going OCRWM program.

CONCLUSION

After reviewing the meeting commitments, the group agreed to tentatively hold the next DOE Meeting of States and Indian Tribes on September 30, 1987, in Dallas, Texas. (After the May 28 meeting, the date for the next meeting was changed to October 1.)

COMMITMENTS

1. DOE will provide copies of the Udall hearing transcript to the States and Indian Tribes when it is released by Congress (Portland #12).
2. DOE will provide all SCP reference documents at the same time the SCPs are released (confirmation of Spokane #12).
3. Since all of the States and Indian Tribes were not invited to the Technical Code Coordinating Group (TCCG) meeting held on May 21-22, DOE will provide all TCCG meeting materials to the States and Indian Tribes. In the future DOE will ensure that all of the States and Indian Tribes receive invitations to all coordinating group meetings.
4.
 - a. DOE will provide summary information on the purpose of the technical coordinating groups to the States and Indian Tribes.
 - b. DOE will also provide the charters of the coordinating groups when they are available.
5. The Spokane meeting commitments that remain to be completed by DOE are #2 and #4.
 - a. For Spokane #2, DOE will continue to work on the master calendar and set up a formal process to update and distribute the calendar to the States and Indian Tribes.
 - b. Spokane #4 is that BWIP will meet with the State of Washington and the Indian Tribes to discuss the study on the diameter of the exploratory shaft that is reflected in the Mission Plan Amendment.
6. BWIP will provide the charge that is given to the hydrology task group to the States of Washington and Oregon and to the Indian Tribes before task group work begins.
7. DOE will consider including representatives of the States of Washington and Oregon and of the Indian Tribes on the EWIP hydrology task group.
8. SRPO will provide a status report on the 75-foot elevation change and any other pertinent changes relative to the Exploratory Shaft Facility in the baseline. SRPO will recheck the baseline distribution process and provide an analysis to the State of Texas within three weeks.
9. S. Kale will review with OGR staff the request of the States and Indian Tribes for an extension from a 90-day SCP public review schedule to a six-month review schedule, and report back to the States and Indian Tribes.
10. DOE will consider how to indicate in the SCP where changes have been made in the draft SCP chapters that were sent to the States, Indian Tribes, and the NRC for review.

11. DOE will consider the ideas on SCP outreach that were proposed by the States and Indian Tribes (see Las Vegas meeting highlights), and the Project Managers will work with the States and Indian Tribes to develop an SCP outreach program.
12. DOE will consider how to implement a process for coordinating the issuance of the Environmental and Socioeconomic Monitoring and Mitigation Plans and the Environmental Compliance Plans with the SCP as part of an integrated program of public review and comment. Also, DOE will consider issuing a policy statement to support the necessity of this integrated program.
13. As recommended by the States and Indian Tribes, the Mission Plan Amendment will not define the consultation and cooperation (C&C) process. The Amendment will make references to: past C&C negotiations under Section 117c of the NWPA; the possibility of interim and/or partial agreements; and to the fact that generic negotiations are not acceptable.
14. DOE will work with the States and Indian Tribes to establish a forum and format by which DOE and the States and Indian Tribes will develop operating principles governing consultation and cooperation between the States and Indian Tribes and DOE. The format will involve joint review of relevant materials designated by DOE and the States and Indian Tribes.
15. The Mission Plan Amendment description of past negotiations will be revised to reflect comments by the State of Washington.
16. R. Gale will contact the Nez Perce, Umatilla, and Yakima representatives to obtain comments on the Mission Plan Amendment description of C&C negotiations with each of the Indian Tribes.
17. The next DOE Meeting with the States and Indian Tribes is tentatively set for September 30 in Dallas, Texas. (After the May 28 meeting, the date for the next meeting was changed to October 1.)

LIST OF PARTICIPANTS

CHAIRPERSON: Stephen Kale, DOE/HQ

States and Indian Tribes

Paul Alexander, Nez Perce Indian Tribe
Harold Aronson, Yakima Indian Nation
Warren Bishop, Washington
Gerald Black, Oregon Department of Geology
Mary Lou Blazek, Oregon Department of Energy
Ginny Bronson, Umatilla Indian Reservation
William Burke, Umatilla Indian Reservation
Larry Calkins, Umatilla Indian Reservation
James Friloux, Louisiana
Steve Frishman, Texas
Kevin Gover, Nez Perce Indian Tribe
John Green, Mississippi
Michelle Henry, Nez Perce Indian Tribe
Ron Halfmoon, Nez Perce Indian Tribe
Daniel Hester, Umatilla Indian Reservation
Robert Holden, NCAI
Terry Husseman, Washington
John Hutchins, CERT, Umatilla Indian Reservation, Nez Perce Indian Tribe
Russell Jim, Yakima Indian Nation
Floyd Kugzrak, Nez Perce Indian Tribe
Michael Later, Utah
Bob Loux, Nevada
Reine Moffett, Nez Perce Indian Tribe
Mal Murphy, Nevada
Bim Oliver, Utah
Bob Palm, Clark County, Nevada
Ralph Patt, Oregon Department of Water Resources
Henry Penney, Nez Perce Indian Tribe
Max Power, Washington
Don Provost, Washington
David Quaempts, Umatilla Indian Reservation
J. Herman Reuben, Nez Perce Indian Tribe
Cheryl Runyon, NCSL
John Schmidt, Nevada
Bob Siek, CERT, Umatilla Indian Reservation, Nez Perce Indian Tribe
Jose Solorio, City of Las Vegas, Nevada
P. D. Spurgin, Utah
Linda Steinmann, Washington
David Stewart-Smith, Oregon Department of Energy
Harry W. Swainston, Nevada
Dean Tousley, Yakima Indian Nation
Del T. White, Nez Perce Indian Tribe
Jack Wittman, Yakima Indian Nation

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Jim Bresee, HQ
Wendy Dixon, NNWSI
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Roger Gale, HQ
David Gassman, NNWSI
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Judy Leahy, HQ
Bob Mussler, HQ
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F. Berndt Schine, HQ
Ralph Stein, HQ
Chris West, NVO
Mike Wisniewski, HQ

Organizations

Madeleine Brown, Rockwell
John Gervers, LATIR Energy Consultants
Mark S. Herwick, SAIC
Steven Kraft, Edison Electric Institute
Barbara McKinnon, SAIC
Diane Meier, WESTON
Marge Olsen, SAIC
Eva Patten, Consultant
Beatrice Reilly, SAIC
David Stevens, DWS, Inc.
Steve Smith, WESTON
Mary Whitman, Consultant