

U.S. DEPARTMENT OF ENERGY  
**memorandum**

DATE December 13, 1985

REPLY TO  
ATTN OF: RW-25

SUBJECT: Highlights of Quarterly Meeting of States and Indian Tribes,  
Atlanta, Georgia, December 3, 1985

TO: Distribution

I was pleased to have had the opportunity to attend the Quarterly Meeting of States and Indian Tribes on December 3rd in Atlanta and to have been able to speak to many of you personally. Attached are the Highlights of that meeting together with commitments from that meeting.

If you have any questions or comments about the Highlights, please contact Barry Gale at (202)-252-1116.

Again, I am glad that we were able to get together and look forward to seeing you in Albuquerque.

Sincerely,

William J. Purcell  
Associate Director for  
Geologic Repositories  
Office of Civilian Radioactive  
Waste Management

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QUARTERLY MEETING OF STATES AND INDIAN TRIBES

Atlanta, Georgia

December 3, 1985

Meeting Highlights

CHAIRPERSON: Don Provost

PARTICIPANTS:

States and Indian Tribes

U.S. Department of Energy

Mac Cameron, MS  
Louis Coakley, GA  
James J. Friloux, LA  
Ronald J. Forsythe, MS  
Steve Frishman, TX  
John W. Green, MS  
Ron T. Halfmoon, Nez Perce  
Daniel Hester, Umatilla  
James Hovis, Yakima  
Terry Husseman, WA  
John Hutchins, CERT  
Russell Jim, Yakima  
J. I. Palmer, Jr., MS  
Don Provost, WA  
Lisa Spruill, MS  
Pat Spurgin, UT

Ellison Burton, HQ  
Barry Gale, HQ  
Roger Gale, HQ  
Ken Goodmiller, HQ (GAO)  
Jim Mecca, BWIP  
Robert Mussler, HQ  
Jeff Neff, SRPO  
Max Powell, BWIP  
Bill Purcell, HQ  
Ralph Stein, HQ

Organizations

John Gervers, Latir Energy  
Consultants  
Curtis Haymore, Weston  
Cathy Milbourn, Weston  
Lisa Stevenson, Weston

MEETING COMMITMENTS:

- 1) DOE will examine the implications of the conflict of interest provision in the recent CRP engineering services procurement and inform the States and Indian Tribes of this review.
- 2) DOE will provide to all States and Indian Tribes, in writing, the revised EA Chapter 6 findings for all sites.
- 3) States and Indian Tribes will meet with the Institutional/Socioeconomic and Environmental Coordination Groups. DOE may then meet in separate executive sessions following the meeting, if they choose, to discuss the same agenda topics as in the previous day's meeting as well as other management-type items.
- 4) DOE will provide to States and Indian Tribes summary minutes of technical coordination group meetings.

- 5) DOE will look into the problem of States and Indian Tribes not receiving adequate advance notice of meetings.
- 6) DOE will check to determine whether potential generic guidance for project offices re: site characterization is being prepared.
- 7) DOE will provide to States and Indian Tribes copies of its annual planning guidance letters, if pertinent to site characterization.
- 8) DOE will provide to States and Indian Tribes an updated SCP schedule when completed--approximately January or February, 1986.
- 9) DOE will consider holding a technical briefing on the ranking methodology for States and Indian Tribes in the January-February time period.
- 10) DOE will revise the local and community guidelines to reflect the comments made at this meeting.
- 11) The next meeting will be in late March or early April, hosted by Mississippi, in Albuquerque, the specific dates to be determined.
- 12) DOE will invite States/Tribes to send representatives to a brainstorming meeting on longer-term public education.
- 13) DOE will provide the States and Indian Tribes with design requirements and design reports for project specific advanced conceptual designs--anticipated date, May 1986 (continuation of Denver commitment #3).
- 14) DOE will provide advance notice to States and Indian Tribes of DOE/NRC meetings at least 30 days in advance. If a change in date occurs, DOE will notify the States and Indian Tribes as soon as possible.
- 15) DOE will provide a design status briefing to States and Indian Tribes on the Licensing Information System at the next meeting.
- 16) DOE will hold workshops and training with States and Indian Tribes on the LIS computer system, as part of pre-start-up activities (continuation of Denver commitment #9).

#### NEVADA CASE

According to UPI, the court has disagreed with DOE's limitations on the State of Nevada's use of grant funds for independent testing. However, DOE Headquarters staff had not yet seen the Court's opinion, so they were unable to comment on the implications of the decision.

#### CONFLICT OF INTEREST IN CONTRACTING

In the Commerce Business Daily of October 15, 1985, DOE solicited expressions of interest in the following work: "Conceptual Description of a High-Level Nuclear Waste Repository in Crystalline Rock." The announcement contains the following phrase: "The resulting contract will bar the

contractor, its member firms, any subcontractor or consultant, including any affiliates of the foregoing, from performing for other than DOE, work having pertinence to the DOE Civilian Radioactive [Waste] Management Program."

The States and Indian Tribes expressed concern that the above criteria will preclude good contractors from bidding on work for them, and that, for example, as a result of this announcement, a contractor for Washington State had indicated its intention not to continue its work for the State. Headquarters responded that the intention of the provision was to avoid conflict of interest in the licensing process, but agreed to look into the matter.

#### INFORMATION FROM DOE

##### Electronic Mail

The States and Indian Tribes said they are not receiving information and announcements from DOE on a timely basis and would like the same kind of electronic mail capability that the secondary repository program has with DOE. To improve the information flow, Headquarters said they will try and update the Bulletin Board more often.

##### Relevance to Indian Tribes

Concern was expressed that material coming from DOE ignores affected Indian Tribes. DOE will correct this.

#### OUTREACH PLANS--FOR EA RELEASE

Headquarters presented a summary of its outreach plan for the release of the Environmental Assessments and indicated that the target release date was February 20, 1986.

#### RANKING METHODOLOGY

Headquarters presented an overview of DOE's Decision-Aiding Methodology for the recommendation of sites for site characterization. The methodology is a more formal version of the utility-estimation method, which was one of three ranking methods used in the Draft EAs. (The Draft EAs were criticized by the National Academy of Sciences (NAS) because two methods lacked firm theoretical foundation, and the third -- the utility-estimation method -- has not been applied according to formal procedures.) NAS will review the methodology and its application, prior to the release of the final EAs.

The States and Indian Tribes requested that DOE send to them for their review the same material it submits to NAS. Headquarters indicated that current plans do not call for that, because the materials will be pre-decisional and will not yet be endorsed by the Department. The States and Indian Tribes expressed strong dissatisfaction with DOE's plan, objecting not to the methodology itself, but to the lack of State and Tribal review and participation in the application of the methodology.

DOE indicated that the entire ranking process will be documented, and that records will be kept of all meetings. These records will include the names of all individuals who participated. Headquarters also agreed to take under consideration, providing to the State and Indian Tribes a written comparison of EA Chapter 6 results against the Guidelines, for each EA. (COMMITMENT #2) In addition, DOE will consider providing a technical briefing for States and Indian Tribes on the ranking methodology, in January or February, 1986.

#### STATE AND INDIAN TRIBAL PARTICIPATION IN COORDINATION GROUPS

States and Indian Tribes will participate in meetings of the Institutional/Socioeconomic Coordination Group and the Environmental Coordination Group. DOE Group members may also meet in "Executive Session" following the full meeting, to discuss the previous days(s)'s agenda items, as well as other management and/or administrative issues.

The States and Indian Tribes also requested that they participate in meetings of technical and regulatory coordinating groups. Headquarters felt such participation is not necessary, and described these meetings as highly technical, detailed discussions, the outcome of which are provisional documents that are then discussed with NRC. Since State and Indian Tribal participation is appropriate at DOE-NRC meetings, and since those meetings discuss technical rationales and analytical history, nothing is lost by not attending coordinating group meetings. However, DOE will provide summary minutes of coordinating group meetings to States and Indian Tribes.

DOE will examine the general problem of why States and Indian Tribes are not receiving adequate notice of meetings and try to improve the situation. Also, the electronic Bulletin Board will be updated as soon as notice of technical meetings is received.

#### PRE-SITE CHARACTERIZATION ACTIVITIES

Headquarters is currently evaluating the status of site characterization planning and will produce a new schedule soon. (The tentative schedule for issuing Site Characterization Plans -- March 1986 for Nevada and Washington, and October 1986 for Salt -- has been delayed.) The States and Indian Tribes indicated they thought that Headquarters was currently preparing a generic guidance for the Project Offices for site characterization. Headquarters stated they were unaware that any such document was being prepared, but would check into it.

The States and Indian Tribes expressed concern that certain site characterization activities would begin before the plans are issued, and objected to being in the position of reviewing the plans after the plans are implemented. They also said they wanted to see the plans for each other's Project Offices, in order to determine to what extent the plans are parallel. In the discussion, DOE and the States and Indian Tribes had different opinions about what kinds of site characterization activities are permissible to undertake before the plans are issued.

The final SCP will comprise three subplans: the In-Situ Test Plan, the Performance Assessment Plan and the surface-based Test Plans. While all draft documents solicit comments, current plans do not call for putting these subplans out separately for formal public review. An updated SCP schedule, including schedules for the subplans, may be completed in January or February 1986, and DOE will provide it to the States and Indian Tribes when it is available. DOE will also provide States and Indian Tribes with copies of its Annual Planning Guidance letters to the Project Offices, insofar as they are relevant to site characterization planning.

With respect to the SCP and the EIS, the States and Indian Tribes indicated that they were seeking linkages between the two, in order to aid the public in assessing the full spectrum of how it will be impacted. Headquarters stated that the two efforts were different processes: one dealing with impacts due to site characterization and the other with repository-related impacts. Headquarters and States and Indian Tribes agreed that impacts as a result of site characterization will be a factor in establishing the base conditions for the EIS.

#### NEXT MEETING

The next Quarterly Meeting of the States and Indian Tribes will be in Albuquerque, New Mexico, in late March or early April. Mississippi will be the host State and Johnny Green will be the lead contact. Barry Gale will be the DOE Headquarters contact.

#### MRS ENVIRONMENTAL ASSESSMENT

Headquarters presented a briefing on the MRS Environmental Assessment. The MRS EA consists of two parts: a Need and Feasibility Analysis and a Detailed Site/Design Evaluation. The MRS EA is one of three MRS proposal documents; the others are the MRS Proposal and the MRS Program Plan. The entire proposal package is scheduled to be submitted to Congress in January 1986.

#### COORDINATION WITH LOCAL GOVERNMENTS

The discussion of this topic dealt primarily with the policy and procedural implications of DOE's Internal Guidelines for Interactions with Communities and Local Governments. The States and Indian Tribes emphasized their roles as the primary channel to DOE on all repository-related matters in their jurisdictions. DOE agreed and indicated that the intention of the Guidelines was not to contradict this. However, DOE also needs to be responsive to local governments and local governments need the option of dealing directly with DOE, if they feel that the States are inadequately representing their interests. Monitoring and mitigation planning and GETT are activities that are expected to involve local affected communities. The States and Indian Tribes suggested several specific changes and clarifications to the Guidelines, which Headquarters agreed to make.

## STATUS OF OCRWM PROGRAM

Headquarters presented a status update on several activities and program documents. Among the topics covered were the Quality Assurance report, the Project Management System, the Systems Engineering Management Plan, the Price-Anderson Act, low-level waste, the fee for defense waste, the release of the Draft Area Recommendation Reports, and the Project Decision Schedule.

### REVIEW OF DENVER AUGUST MEETING COMMITMENTS

The commitments that were made at the previous Quarterly Meeting in Denver, Colorado, August 8 & 9, were reviewed. Following is their status.

<u>Denver Commitment</u>	<u>Lead Responsibility</u>	<u>Due Date</u>	<u>Status</u>
1. U.S. Department of Energy (DOE) will identify, transmit and propose an approach for State and Tribe involvement in Coordinating Groups.	Burton	October 8, to States and Indian Tribes	Completed - Purcell memo of October 2nd.
2. DOE will provide program management system manual to States and Indian Tribes.	Fiore	TBD	Due at end of year.
3. DOE will provide States and Indian Tribes with design requirements and design reports for project-specific advanced conceptual designs.	Stein	TBD	Expected in May (See Atlanta Commitment #13.)
4. DOE will consider expanding Site Characterization Plan (SCP) hearings to include Environmental Impact Statement (EIS) scoping.	Mussler	TBD	Viable option; still being considered.
5. DOE will include a surface based test plan in the SCP and review its contents with the States and Indian Tribes before beginning in-situ testing.	Stein	TBD	Discussed at Atlanta meeting.
6. DOE will afford opportunities for informational review of SCP chapters and drafts before public release.	Stein	TBD	Discussed at Atlanta meeting; SCP date not firm.
7. DOE will periodically update and mail schedule for DOE/Nuclear Regulatory Commission meetings.	Stein	Ongoing	Discussed at Atlanta meeting (See Commitment #14.)

<u>Denver Commitment</u>	<u>Lead Responsibility</u>	<u>Due Date</u>	<u>Status</u>
8. DOE will provide the Licensing Information System (LIS) requirements study to States and Indian Tribes.	Stein	TBD	Probably will not be published as a small document. DOE moving directly to design phase. Will brief States and Indian Tribes at Albuquerque Meeting (Atlanta Commitment #15).
9. DOE will hold workshops and training with States and Indian Tribes on the LIS computer system, as part of pre-startup activities.	Stein	TBD	Ongoing (See Atlanta Commitment #16).
10. DOE will provide States and Tribes with any relevant documents on National Environmental Policy Act.	Burton	TBD	Ongoing
11. DOE will make early drafts of EIS available, regardless of cooperating agency approach.	Burton	TBD	Ongoing
12. States and Indian Tribes will call cognizant HQ Desk Officer by October with elaboration of their interest in participating in working groups.	States and Tribes	October	Discussed at Atlanta meeting; see (Atlanta Commitment #3.)
13. DOE will provide to States and Tribes a list of objectives regarding interactions with local communities and governments.	Burton	TBD	Completed R. Gale memo of October 8th.
14. States and Indian Tribes will provide Ben Easterling ideas regarding DOE's educational program.	States and Tribes	TBD	Nothing was required in writing. DOE will follow-up with States & Indian Tribes one by one (Also see Atlanta Commitment #12.)