

Nuclear Energy Tribal Working Group

Meeting Summary

January 27-28, 2016

Palm Springs, CA

Meeting Purpose

The Nuclear Energy Tribal Working Group (NETWG) is a chartered working group, focused on engaging tribal governments interested in the broad spectrum of Department of Energy (DOE) nuclear energy activities. NETWG explores such topics as nuclear research and development, small modular reactors, stakeholder outreach, STEM education, emergency response and planning activities, and potential economic business opportunities.

Key Takeaways

- A Steering Committee was formed to help shape discussions and develop a path forward. The committee is comprised of *Heather Westra, Prairie Island Indian Community; Adam Duran, Pueblo of Pojoaque; Rob Burnside, Confederated Tribes of the Umatilla Indian Reservation; Richard Arnold, Consolidated Group of Tribes and Organizations.*
- Look for opportunities to make NETWG more “product driven.”
 - Produce an issue paper regarding notification of shipments to tribes. There is a concern that tribal notification could fall through the cracks if tribes haven’t completed the Advanced Notification Protocol and NRC fails to notify them.
- The group will explore the idea of a NETWG wiki site.
- Tribal sovereignty as it relates to consent-based siting requires further discussion. How does NETWG guide the process without having resources to support some of their efforts?
- Desire to revisit NETWG Charter to align objectives.
- To whom is NETWG making recommendations? (revisit language in charter).
- Consent-based siting. Whose consent is needed and how is it valued (see Goshute dispute below)?

Attendees (see attached Participant’s list)

Closed session

Tribal members only.

DOE Nuclear Research and Development

Jay Jones, DOE-NE

Global Nuclear Projections – China is developing the greatest number of new plants. There are five new plants under construction in the U.S.

Goal of program is to develop fundamental scientific basis to allow continued long term safety and operation of nuclear facilities.

Overview covered:

- Small Modular Reactors (SMR) – 300 MWe
- SMR licensing Technical Support Program with proposed funding of \$450 Million over 6 years.
- Space and Defense Power Systems. DOE has a close relationship with NASA.
- DOE is working with the NRC, industry, academia and international partners.
- Extended Storage & Transportation R&D – evaluation of degradation mechanisms relevant to long-term storage and subsequent transportation.
- R&D Relevant to Transportation and Storage:
 - Used Fuel Disposition Campaign for used Nuclear Fuel and High-Level Radioactive Waste.
 - Disposal– looking at best practices globally.
 - Deep Borehole Disposal Concept for disposal of waste – much deeper than current disposal facilities and could be used for small waste packages. Pilot project in North Dakota was just licensed and will be studying geophysical and geochemical impacts. Drilling will begin this year. Test holes will not contain any waste.

Comments:

- Devon Boyer – The Shoshone Bannock tribe would not support Deep Borehole Disposal Concept in light of impacts to cultural land and resources.
- Sarai Geary– What are other countries doing with waste?
 - Response - Eventually all waste will need to go to underground storage facilities, but most countries have interim storage.
- Talia Martin – What is timeline for deep boreholes?
 - Response - Actual disposal of waste is pretty far out. Would be handled by a consent-based siting process.

Office of Indian Energy Priorities

The Office of Indian Energy (OIE) will advance its program priorities through:

- Information and Outreach
- Analysis
- Capacity Building
- Technical Assistance – START Projects and Technical Assistance for Tribes. Supports renewable energy projects.
- Financial Assistance and access to capital. Current DOE Funding Opportunities: FOA 0001390 and 0001408

Tribes are encouraged to sign up for bi-monthly OIE newsletter. Webinars are hosted on the last Wednesday of each month.

Indian Country Energy and Infrastructure Working Group (ICEIWG) works closely with the OIE and currently consists of eleven participating tribes.

OIE is partnering with Washington Internships for Native Students (WINS) program to bring internship opportunities to native students. Tribes should refer students from their tribes to be part of the internship program.

OIE provides Technical Assistance and project development tools. A list of TA opportunities in on their website: http://apps1.eere.energy.gov/tribalenergy/technical_assistance.cfm

OIE also features a database of all federal financial assistance for tribes:
http://apps1.eere.energy.gov/tribalenergy/financial_opportunities.cfm

Thursday, January 28, 2016

Overview of Dry Storage

Steve Maheras, Pacific Northwest National Laboratory

- 130 Nuclear Power Plants built for Commercial Power Generation.
- Shutdown Reactor Sites are increasing in number.
- 11 Dry Storage systems and 9 transportation casks are currently used at shutdown sites.
- Independent Spent Fuel Storage Installations (ISFSIs). Site specific licenses are in place at some sites. Industry is trending towards general licenses. If can (waste) is not moved, it only went through the “storage” part of the licensing process, not the “transportation” part of the process. Should they need to be moved, that would need to be addressed.

High Burnup Spent Fuel Demonstration

Jay Jones, DOE-NE

Deals with a type of fuel that has been in the reactor for a longer period of time and is hotter and more radioactive. Shipments will go to Oak Ridge National Laboratory (ORNL) for a 10 year testing period.

Overview of Licensing Process for Interim Storage Sites

Paul Michalak, U.S. Nuclear Regulatory Commission

David Pstrak, U.S. Nuclear Regulatory Commission

- NRC’s Decision Process for Independent Spent Fuel Storage Installations (ISFSI)
- NRC has two types of licenses: General License (only available for holder of Part 50 reactors license, requires use of dry cask storage system certified by NRC) and Site Specific License (available for an ISFSI, either at a reactor or away from reactor.)
- Term of storage license is 40 years. Can be renewed for an additional 40 years. Applies to interim storage.
- “Away from reactor site” ISFSI process includes Environmental Impact Review and NRC Adjudicatory Hearing process. Based on the outcomes, NRC will issue the license. Two strands – Safety Review and Environmental Impact Review.
- Adjudicatory hearing before the NRC’s Atomic Safety and Licensing Board Panel (ASLBP) offers the opportunity for public input.
- License process: 90 day acceptance review; 36 month Safety and Environmental Review; Adjudicatory hearings don’t have a timeline (based on level and extent of public comment); Licenses are issued 10 days after Commission’s decision.
- Waste Control Specialists will submit an application by April 2106 for facility in Andrews, TX.
- Holtec International and Eddy-Lea Energy Alliance intend to submit an application for independent spent fuel storage installation for site in NM (near Carlsbad). NRC is currently in pre-application discussions.

Comments:

- Heather Westra – who are potential customers of these two new facilities? Where is the waste coming from?
 - Response - mostly utilities. Shipments are between private facilities.

Private Fuel Storage

Jay Jones, DOE-NE

A consortium of utilities called Private Fuel Storage, LLC (PFS), proposed a temporary storage site for spent nuclear fuel in 1998 together with the Goshute Indians after the federal government failed to keep its contractual obligation to dispose of spent fuel at Yucca Mountain. The PFS and the Goshutes submitted an application to NRC which was approved in 2005. Once that happened, the State of Utah became more intensely involved and opposed it. (Senator Harry Reid also opposed the site.) This illustrates the need for tribes, who are interested in storage, to work collaboratively with states. Capacity at the site was 40,000 metric tons. Goshutes and NRC have worked together to reduce license fee.

Jurisdictionally, this raises questions. How can a State overrule a Tribe? Through what means did the state's position prevail over what the tribe wanted. It should be noted that tribal interests don't necessarily end where their land ends. (As well, there was dissention within in the tribe as to whether this should be pursued or not.)

Clean Power Plan (CPP)

Sara Drescher, Forest County Potawatomi Community

CPP impacts approximately one hundred thirty-two (132) tribes. Tribes have different interests than states. Under the current rule, tribes could be forced to sell Emission Rate Credits (ERCs) to a producer that has been polluting their lands for years.

Forest County Potawatomi and other tribes are pursuing rulemaking for an independent mechanism that would allow the tribes to participate in the Clean Power Plan (CPP) as separate and distinct entities and not through states. The primary reason being that states do not have jurisdiction over tribes; tribes are sovereign nations.

Multiple legal frameworks already exist to support Tribes comments (opposition to) CPP including:

- The Tribal Authority Rule (TAR) is the key to tribal implementation of the Clean Air Act. The TAR identifies those provisions of the Clean Air Act for which it is appropriate to treat eligible federally-recognized tribes in the same manner as a state (TAS).
- Federal Trust Responsibility.
- The 1984 Indian Policy states that the EPA is to engage directly with tribes.

A Federal Implementation Plan (FIP) is called for to be consistent with EPA practice. This would offer tribes the opportunity for direct involvement in the CPP.

CPP should provide a platform for tribes without an electric generating unit (EGU) to create ERCs and earn allowances through energy efficiencies and carbon free or carbon neutral energy projects.

Key elements needed to address important tribal concerns:

- Fully include distributive generation.
- Tribes should own ERCs and allowances and be able to trade as they see fit.
- Allowance for all carbon-free or carbon neutral renewable generation.
- Tribes could work with states, but again, it erodes tribal sovereignty.

Tribes should have a goal to get involved early in the CPP in order to monetize ERCs.

Clean Power Plan – DOE-NE perspective

Secretary Moniz supports nuclear energy as a viable option to reduce emissions. In the 2016 budget, \$900 million to support civilian nuclear energy sector and \$12.5 billion in loan guarantees for advanced nuclear projects was earmarked. These investments secure three objectives: energy security, economic competitiveness, and environmental responsibility.

Moving Forward

- The group discussed the importance and need to distinguish NETWG from the NTSF Tribal Caucus.
- If NETWG meetings and NTSF meetings are co-located in the future, it would be beneficial to have the NETWG meeting first.
- Future NETWG wiki site.
- In accordance with its charter, NETWG is to meet quarterly. A determination needs to be made as to whether all four meetings will be in-person, or if webinars or conference calls will suffice.
- The group expressed interest in a better understanding of what DOE-NE does.
- The group will need to discuss its interest in Technical Assistance webinars and site visits.
- Locations for future meetings. Idaho National Labs in April or May. (Suggestion by Jay to substitute one or two webinars for in-person meetings). Oneida is another possible location.
- Expanded membership – need to get right people in and be cognizant of budget.
- NCSL will take the lead on communicating with Morongo and Agua Caliente tribes.



This meeting summary was written and compiled by Kim Tyrrell with the National Conference of State Legislatures (NCSL). Through a cooperative agreement with the U.S. Department of Energy, NCSL provides staff support to numerous state and tribal working groups.