

HANFORD NATURAL RESOURCES TRUSTEE COUNCIL

SENIOR TRUSTEE CONFERENCE CALL

Dated April 15, 2009

Consisting of 13 pages,
including this coversheet

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HANFORD NATURAL RESOURCES TRUSTEE COUNCIL
Senior Trustee Conference Call
April 15, 2009

Draft Conference Call Summary

Agenda

The agenda for the conference call was to:

- Welcome all and introduce new trustees
- Identify objectives of the call and where we are in the 2011 budget process
- Identify FY2010/2011 budget issues and uncertainties and obtain any updates
- Ask questions and discuss budget alternatives
- Vote and determine whether consensus has been reached

Attendees are listed in Attachment A. An updated Action Item list for the Council is provided as Attachment B. The budget support document is provided as Attachment C.

Background

- **Welcome and Introductions.** Participants were welcomed and introduced.
- **FY2011 Budget Process.** The FY2011 budget process was described, including uncertainties associated with the Obama transition and stimulus package. Key information, such as the 2010 President's budget and EM guidance on FY2011, is late and not yet available for us this year. Nevertheless, timely input to DOE's budget process for 2011 is needed.

Budget Alternatives

- **Questions and Discussion.** Senior Trustees asked a variety of questions about the basis for the FY2011 budget alternatives, including tasks that are expected to be completed in 2009 and 2010, and the conceptual differences that led to the development of alternatives for consideration. Each Senior Trustee provided his or her current perspective on the alternatives and issues they represent. Several key issues were discussed, including how many FTEs are needed to conduct the identified scope, what the growth model is that the Council should ideally be striving toward and why, and how much work the Council can effectively manage in 2011.
- **Straw Poll.** Senior Trustees were polled on where they stood at this time with respect to the budget alternatives, with the following results:

⇒ 3 in favor of the Hybrid

- ⇒ 2 strongly in favor of Alternative 2, but could, with further FTE justification, consider the Hybrid
- ⇒ 2 strongly in favor of Alternative 1
- ⇒ 1 willing to support either Alternative 2 or the Hybrid

No final decisions were made on which alternative to move forward with.

Polly stated that in order for Ecology to consider the Hybrid, further work would need to be done to clearly justify the need for the FTEs contained within that alternative, on the basis of the scope that the Trustees would be taking on in 2011. Oregon DOE supports this position also.

It was agreed that the HNRTC would do additional work to clarify the role of, and need for, the FTEs requested and return to the Senior Trustees with an updated alternative and support documentation for consideration (AI280).

ATTACHMENT A
Conference Call Attendees

CTUIR

Stuart Harris*
Barb Harper

Nez Perce Tribe

Brooklyn Baptiste*
Gabriel Bohnee

Yakama Nation

Phillip Rigdon*
Russell Jim
Jay McConnaughey
Brian Barry

OR Dept. of Energy

Ken Niles*
Paul Shaffer

WA Dept. of Ecology

Polly Zehm*
Larry Goldstein

WA Fish & Wildlife

Charlene Andrade

NOAA

Craig O'Connor*

US Dept. of Energy

Dave Brockman*
Al Hawkins
Woody Russell
Doug Shoop
Janice Ward
Steve Wisness

US Fish & Wildlife Service

Greg Hughes*
Robin Thorson

Facilitator

Teresa Michelsen

* Senior Trustee representative

ATTACHMENT B

ACTION ITEMS

| | Assignee/Action | Date Assigned | Date Completed |
|-----|---|----------------------|-----------------------|
| 271 | Develop calendar of events accessible online. <i>ACTION: Lynda, Steve</i> | 3/17/09 | |
| 272 | Update and distribute electronically revised contact list. <i>ACTION: Lynda</i> | 3/17/09 | |
| 273 | Review and revise by-laws and distribute for Council review. <i>ACTION: Teresa</i> | 3/17/09 | |
| 274 | Review and revise letter process and distribute for Council review. <i>ACTION: Teresa</i> | 3/18/09 | |
| 280 | Prepare revised 2011 budget support document supporting FTE requests on the basis of 2011 scope and activities. <i>ACTION: Teresa, all</i> Update of existing action item | 4/15/09 | |
| 281 | Schedule time for review of Stratus deliverables. <i>ACTION: Paul, Stratus</i> | 3/18/09 | |
| 282 | Identify Chairs of the source/pathway and groundwater TWGs <i>ACTION: DOE, Council (respectively)</i> | 3/18/09 | |
| 283 | Write a letter to the sturgeon workgroup requesting samples for NRDA injury assessment. <i>ACTION: Toni</i> | 3/19/09 | |

ATTACHMENT C

FY2011 Natural Resource Damage Assessment Budget

Background

Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to ensure timely cleanup and restoration of contaminated sites and to require responsible parties to fund or reimburse the associated cleanup and restoration costs. CERCLA has two main parts, 1) the response process to clean up the contamination and 2) the restoration, or natural resource damage assessment (NRDA) process. The Environmental Protection Agency (EPA) oversees cleanup actions, while various federal, state and tribal representatives serve as natural resource trustees for restoration under NRDA. As part of NRDA, CERCLA provides for the recovery of the "...damages for the injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss resulting from the release." For the Hanford Site, the natural resource trustees include the U.S. Department of Energy (Richland Operations Office and the Office of River Protection, both of which are part of the DOE Environmental Management program (EM)); U.S. Department of the Interior (DOI); U.S. Department of Commerce; state of Washington; state of Oregon; the Yakama Nation; the Confederated Tribes of the Umatilla Indian Reservation; and the Nez Perce Tribe.

Recent EM guidance (memorandum from Charles Anderson, Deputy Assistant Secretary for Environmental Management, June 27, 2006) states, "...it will generally be in the Department's interest to work collaboratively as possible with its co-trustees. Moreover, the scope of a particular trustee's jurisdiction may be uncertain in some cases. Consequently, sites are encouraged to be as inclusive as possible in the decision-making process." In April 2007, the federal trustees at Hanford determined to proceed with the injury assessment phase for the Hanford site and stated, "We [DOE, DOI and NOAA] look forward to...working cooperatively with the state and tribal trustees as we move forward in the NRDA process at Hanford."

The trustees formed the Hanford Natural Resource Trustee Council (HNRTC) in 1993 with DOE-RL serving as an administrative coordinator. The Council serves as a venue for cooperation and coordination of work on response and NRDA activities. The council objectives are:

- To help ensure natural resource values are fully considered in decision-making related to the Hanford Site;
- To integrate, to the extent practicable, natural resource restoration into cleanup action and to minimize additional injuries to natural resources during cleanup;
- To conduct an injury assessment, including development of an injury assessment plan as defined under 43 CFR Part 11, in support of ultimately restoring resources lost from Hanford contamination.

Basis for Action

In 2006, the Yakama Nation completed a preassessment screen for the Hanford Site and determined that there was sufficient information regarding on-going injury to proceed with a natural resource damage assessment. Washington State concurred with the Yakama Nation's determination. In 2007, the CTUIR also completed a preassessment screen and a determination to proceed with an NRDA for Hanford. In April of 2007, the federal trustees determined to proceed with an NRDA and begin the Injury Assessment Phase in parallel with ecological risk assessments.

The Hanford Natural Resource trustees are conducting an injury assessment for the Hanford Site. The assessment is designed to evaluate the extent to which natural resources in and around the Hanford Site have been impacted by contaminants released from the Hanford Site. To the extent such impacts are identified, the trustees will quantify the injuries and establish the type and quantity of restoration necessary to compensate for the lost natural resources.

This budget supports the trustees' goal of conducting initial injury assessment activities in a time frame that allows the NRDA to inform and assist response actions, thereby reducing the eventual costs of meeting both response and NRDA legal requirements.

Process and Status

The Trustees are committed to ensuring that cleanup decisions consider, address, and minimize natural resource injuries. Therefore, the trustees plan to coordinate the NRDA with related cleanup work to the greatest extent possible, increasing efficiency of the cleanup and reducing costs.

Although final determination of the damages may not be possible before the cleanup is completed, there is no reason to delay injury assessment. Indeed, it is possible to reduce the ultimate damages by working to mitigate injuries when choosing among remedial options, and by conducting early NRDA restoration where possible. Damage estimates have a temporal component and accrue over time; therefore, completing restoration early can significantly reduce the cost of restoring the site. This is part of the reason DOE and EPA guidance call for considering and mitigating natural resource injuries concurrently with response actions.

The Hanford Natural Resource Trustees have agreed to proceed with an NRDA process using DOI regulations and guidance. The overall steps for this process are (Figure 1):

1. Pre-assessment screen
2. Assessment Plan Phase
 - a. Assessment Plan
 - b. Injury Determination Phase (this is where we will be in 2011)

- c. Quantification Phase
- d. Damage Determination Phase

3. Post-Assessment Phase

A contractor was hired in 2008 to begin the scoping and planning (Phase I) of the injury assessment plan. Products that will be produced by June 30, 2008 include:

1. List of potentially injured cultural resources
2. Injury assessment Conceptual Site Model
3. Data resources integration report
4. Data management report
5. Summaries of kick-off meeting, workshops, and other meetings with the trustees related to Phase I work

A contractor will be hired at the start of FY2010 for preparation of the injury assessment plan (Phase II), and is scheduled to complete the injury assessment plan, along with a site-wide quality assurance management plan, by December, 2010. The assessment plan will generally follow the DOI regulations for a NRDA “Type B” assessment.

Budget Basis

In 2007 and 2008, DOE provided funds needed to allow the HNRTC to begin planning the injury assessment. In April 2008, a Phase I contractor was selected to develop a conceptual site model and other products preparatory to an injury assessment plan. Phase I will be completed during 2009. It is anticipated that the contract for Phase II of the Assessment Plan will be awarded no later than the beginning of FY2010. It is also anticipated that 1) the draft injury assessment plan, 2) a draft project-wide quality assurance management plan, and 3) four injury study work plans and associated quality assurance plans will be completed by the end of FY2010.

FY2011 injury assessment activities require “within target” or otherwise dedicated funding, as these funds are by statute intended to be provided over and above those for cleanup activities. The HNRTC supports the vital cleanup work DOE is conducting at Hanford and has no interest in diminishing the funds available for those activities. The overall FY2011 budget has three components: 1) injury assessment studies, 2) support staff, and 3) trustee involvement as summarized in Table 1 and discussed below. Two budget alternatives are currently being discussed; both proceed from the same 2010 basis. Where there are differences between them, they are noted below.

Table 1. FY 2011 NRDA Budget Alternatives

| Item | Cost Alt. 1 | Hybrid 1/2 | Cost Alt. 2 |
|---|--------------------|--------------------|--------------------|
| Injury Studies (Planning/Implementation) | \$6,000,000 | \$3,200,000 | \$3,200,000 |
| Support staff | | | |
| Facilitator/public involvement | \$150,000 | \$150,000 | \$150,000 |
| Project coordinator | \$210,000 | \$210,000 | \$210,000 |
| Data management/GIS | \$300,000 | \$300,000 | \$200,000 |
| Trustee Government Participation | \$2,487,000 | \$2,487,000 | \$2,040,000 |
| Total | \$9,147,000 | \$6,347,000 | \$5,800,000 |

Study Planning/Implementation

Through the Technical Working Groups (TWGs) established in 2009, study plans for four field studies will be completed in FY 2010, to be implemented in FY 2011. Trustees may also proceed in 2011 to plan and implement additional studies (to be determined both in type and number) based on findings of the draft injury assessment plan that will be completed by end of 2010.

The following are examples of some of the early study areas that may be addressed by the Council, subject to further discussion by the TWGs in FY2010/2011. All of these are simply provided as “placeholders” for budgeting purposes; exact studies to be conducted will be determined by the Council based on TWG recommendations in 2010 and on the draft and final injury assessment plans.

- 1) Establishment of environmental baseline
- 2) 3-D river model (43 CFR 11.64)
- 3) Location and characterization of groundwater upwelling areas in the Columbia River in coordination with response contractors (43 CFR 11.63)
- 4) Fate and transport of contaminants (43 CFR 11.64); e.g., mapping Cr plumes in the Columbia River.
- 5) Effects of contaminants of concern on aquatic ecosystems (43 CFR 11.62); e.g., continuing studies on the effects of Cr on salmon, or continuing studies on sturgeon
- 6) Effects of contaminants of concern on terrestrial/riparian ecosystems (43 CFR 11.62); e.g., evaluation of whether swallows are using contaminated bank sediments

Alternative 1

The Alternative 1 budget assumes that 6 studies of varying sizes and types will be carried out in 2011, including 4 studies planned in 2010 and an additional 2 studies planned in 2011. This budget makes the following general assumptions about cost:

- \$500K for a literature review or analysis of existing data
- \$1M for a bioassay study or limited field study
- \$1.5M for a field study

The rationale for including more studies in Alternative 1 is that there will be sufficient staff capacity to oversee these studies, conducting needed studies earlier rather than later will allow better integration with CERCLA response activities, thus reducing overall costs for Hanford response and NRDA, and would reduce the overall length of the NRDA process.

Alternative 1/2 Hybrid and Alternative 2

These two budget alternatives assumes that 4 studies will be carried out in 2011, which will be those planned in 2010. This budget makes the following general assumptions about cost:

- The studies will be smaller studies, most likely from the first two categories listed above
- Average costs per study will therefore average in a lower range, approximately \$750,000 (\$200,000 is also provided for peer review)

The rationale for including fewer and smaller studies in 2011 is to allow time for staff to come up to capacity and make good decisions about the data gaps that remain, be fully informed by the Phase II injury assessment plan, and have criteria in place for selecting among potential studies.

Support Staff

Both alternatives assume that the trustees will continue to need the services of a facilitator (hired in FY2009), project coordinator (to be hired in FY 2009/2010), and administrative assistant (provided by DOE), and include the same amount for these contracts.

The trustees will need independent access to large amounts of data generated through 1) the NRDA process, 2) the Remedial Investigation process, and 3) other means such as historical fate/transport work performed from the initial operation days. Access will require a server system accessible by all trustees and housed remotely from the Hanford Site.

Alternative 1 and *Alternative 1/2 Hybrid* provide for \$300,000 for data management. Under Alternative 1, more studies would be carried out in 2011, necessitating more data management resources. Alternative 1/2 also requests this amount, in recognition of the

large quantities of existing data that still need to be collected and made available to the Trustees.

Alternative 2 provides \$200,000 for data management, commensurate with the fewer studies assumed under this alternative.

Trustee Involvement

The HNRTC must collaboratively plan, approve, and implement all aspects of the NRDA. As such, funds are requested not only for oversight of a contractor, but for active participation in contractor activities and for Council activities in addition to contracted work. Trustee participation on NRDA councils is intensive and time-consuming, particularly when NRDA funds are not dedicated at the beginning of the process, the number of trustees and their varying interests is large, and the trustees anticipate being extensively involved in planning, implementing, and interpreting studies.

Good contracting and support staff are essential to the Council’s success; however, so is adequate funding to bring trustee resources to bear. The Council is committed to hiring, both collectively and within individual member governments, the necessary contractors and staff to participate at all levels of the Council’s activities. Currently, the Council consists of a Senior Trustee group, a Technical Trustee group, and six Technical Workgroups, all of which must be staffed. In addition, additional staff will participate in reviewing and preparing documents and in design and oversight of work products. The Trustees have wide variations in their abilities to take on additional staff, and are often affected by unexpected hiring freezes and other such factors. Therefore, it is not anticipated or required that all trustees have an equal budget; however, it is expected that all staff and contractors hired by the Trustees will support activities of the Council in an active and visible way, sharing work products and participating on work groups commensurate with their allocation.

In the budget, DOE’s allocation is not listed, as it is provided entirely in-kind. Table 2 identifies the Trustee participation requests for 2011, with additional detail following:

Table 2. FY 2011 Cost of Trustee governments in NRDA

| Government | Cost Alt. 1 and 1/2 | Cost Alt. 2 |
|-------------------------------------|----------------------------|--------------------|
| Confederated Tribes of the Umatilla | \$500,000 | ? |
| Nez Perce Tribe | \$250,000 | ? |
| Yakama Nation | \$825,000 | ? |
| State of Oregon | \$150,000 | ? |
| State of Washington | \$240,000 | ? |
| Dept. of Commerce | \$250,000 | ? |
| Dept. of the Interior | \$272,000 | ? |
| Total | \$2,487,000 | \$2,040,000 |

Alternative 1 and 1/2

The following requests for funding have been made under Alternative 1, and would also be assumed under the hybrid 1/2. The rationale for each trustee's request is provided below, based originally on the number of studies proposed for Alternative 1. However, the *Hybrid 1/2 Alternative* was proposed to reflect the intensive planning phase that is anticipated to take place in 2010 and 2011, which will necessitate frequent and in-depth staff involvement. This alternative continues to support staffing up in 2011, while allowing more time for planning and selecting studies than *Alternative 1*.

- **Confederated Tribes of the Umatilla.** The CTUIR for FY2011 anticipates funding similar to what was requested in FY2010, which includes the hiring and subcontracting of an equivalent of at least four FTE's (at least two new employees, and the rest are subcontracts and allocated to existing staff). Fields of expertise desired: shrub-steppe/restoration ecology, soil science, phytotoxicity, aquatics biology, data management/modeling and policy analysis.
- **Nez Perce Tribe.** During 2011, the Nez Perce Tribe anticipates funding two full time NRDA support positions. We will be hiring one more staff position in addition to our present staff that may be an aquatic toxicologist or policy person.
- **Yakama Nation.** The Yakama Nation recognizes that the Hanford Site is a Superfund mega-site. Hazardous substance releases via air and water have transported contaminants far from the site. A thorough understanding of the degree and extent to which the contaminants have come to be located requires a significant effort by the Yakama Nation to obtain a level of understanding of cultural and natural resources potentially injured by Hanford hazardous substances, located off and on site.

The Yakama Nation expects the council to have a draft final injury assessment plan (IAP) and a final Programmatic Quality Assurance Management Plan completed by the end of FY 2010 along with four study plans. The IAP should be finalized in early FY 2011 with the council developing additional studies plans beginning at that time. Based on those expectations, the Yakama Nation sees the council dealing with 6 or more injury studies in FY 2011. In order to effectively implement the injury assessment plan phase, we will need a cadre of expertise using staff and contractors, including consulting firm(s) with an interdisciplinary team of experts. The use of contractors allows for the flexibility to tap expertise tailored for specific studies (TBD) selected through the multi-government collaborative approach. The Yakama Nation will require 7 FTEs to deal with the multiple products and studies being addressed by the council in FY 2011.

- **State of Oregon.** During 2011, the State of Oregon expects to fund one staff position (one FTE) to support NRDA activities. This is intended to be a new position, supplementing Oregon's existing staff support for trustee activity for response and NRDA efforts. Likely area of expertise will be aquatic and/or restoration ecology.

- **State of Washington.** Washington State has one FTE currently dedicated to the injury assessment, and anticipates hiring one additional FTE in 2011. At this time it is uncertain what the field of expertise needed will be. In part that decision will be determined by the type of field studies being conducted.
- **Dept. of Commerce.** In 2011, NOAA anticipates committing one position (one FTE) for representation on the HNRTC, participation in technical work groups (aquatic, study design and review, restoration), and as NOAA's technical lead on NRDA activities. An additional 0.4 FTE (will involve more than one individual) will be funded for management and additional technical staff support. NOAA expects to participate fully in all HNRTC activities but will focus on assessment of injuries and damages to NOAA trust resources (salmon and steelhead).
- **Dept. of the Interior.** During 2011, the US Fish and Wildlife Service will continue funding one dedicated staff position (1.0 FTE/135k) to support NRDA activities. This biologist/environmental contaminant specialist position, initially filled in 2009, serves as a technical lead for FWS in Natural Resource Damage Assessment activities, participant in Technical Work Groups, and as a technical resource to the Hanford Natural Resource Trustee Council.

Senior-level technical and policy support and HNRTC representation (0.5 FTE/75k) will be provided by one or more senior environmental contaminant specialists or managers, as appropriate. The FWS's primary representative on the HNRTC will be Environmental Contaminants Program Manager (located in the FWS Spokane Office). Other support will be provided, as needed, by senior FWS NRDA specialists/managers who work on other major national NRDA sites. This support may be as panel participants for proposed HNRTC workshops on NRDA or additional technical support. Additional required agency overhead is 29.5% (\$61,950) for a total request of \$271,950.

Alternative 2

Individual trustee requests for funding have not yet been discussed under Alternative 2, and will need to be finalized if Alternative 2 is selected. The budget assumes that a somewhat smaller amount would be needed, with approximately 3 fewer FTEs divided among the organizations, due to fewer studies being conducted.