

Franco to Klein
Final 5/11/07

SENIOR TRUSTÉE MEETING
May 7, 2007
Ecology Office, Richland Washington
1:00 to 4:00

0078836

Attendees – Senior Trustee & Support Staff

CTUIR	Barbara Harper	Bharper@amerion.com
DOE-RL	Keith Klein	Keith_A_Klein@rl.gov
DOE-RL	Dana Ward	Dana_c_ward@rl.gov
DOE-RL	Joe Franco	Jose_R_Joe_Franco@rl.gov
EPA	Larry Gadbois	Gadbois.larry@epa.gov
NT	Gabriel Bohnee	Gabeb@nezperce.org
NT	Anthony Smith	Asmith@nezperce.org
NOAA	Craig O'Connor	Craig.R.OConnor@noaa.gov
USFWS	Ren Lohoefer	Ren_Lohoefer@FWS.com
WDFW	Jeff Tayer	Tayerjtt@dfw.wa.gov
WDOE	Polly Zehm	Pzeh461@ecy.wa.gov
WDOE	Larry Goldstein	Lgol461@ecy.wa.gov
YN	Philip Rigdon	Prigdon@yakama.com
YN	Jay McConnaughey	J.mccon@verizon.net
YN	Brian Barry	
YN	Russell Jim	russell@yakama.com
YN	Ray Givens	raygivens@givenslaw.com
By telephone		
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DOE-ORP	Woody Russell	Woody_russell@orp.doe.gov
DOE-ORP	Scott Stubblebine	Scott_D_Stubblebine@orp.doe.gov
DOE-RL	Connie Smith	Connie_V_Smith@rl.gov
DOE-RL	Jamie Zeisloft	Jamie_Zeisloft@rl.gov
DOE-RL	John Sands	John_P_Sands@rl.gov
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Welcome and Introductions

The meeting started at 1:00 P.M

Keith Klein hosted and welcomed the attendees to the meeting. Keith talked on leaving DOE and that Joe Franco would be leading the trustee activities for DOE until the new Manager was selected. The attendees introduced themselves and gave brief remarks on cooperation and moving forward. There were 20 Senior Trustees and representatives present in the conference room and another 9 participants by telephone.

After the introduction, Keith went directly to the issue that the attendees wished to discuss which was the next steps in the natural resources damage assessment process. Keith assured the group that DOE wanted to focus on collaboration and cooperation. DOE has heard the trustees and wants to move forward.

Keith went on to propose that the next step be to collaboratively develop a Plan of Assessment (Assessment Plan) that would essentially represent a "scoping" of the Damage Assessment itself. The question is how do we do that in a collaborative way? DOE does not want to follow its usual process and just lay a product out on the table for review and comment. Instead, he proposed the Trustees work to secure a contract with someone not currently involved with Hanford NRD activities, but who fully understands the NRD process, to prepare in a phased manner under the Trustee's guidance an Assessment Plan for conducting the NRDA.. Our goal would be that in the end the Plan would be one we all feel that we helped to develop. He further proposed that at the next regularly scheduled Trustee Council meeting that the Council representatives start with a blank whiteboard and try to identify the principle elements of a possible statement of work (SOW) for such a contractor. They could also propose whatever other objectives, constraints, process features, etc, that they thought would be important in framing this contract and how it would work (eg, phasing of contract deliverables, development and review processes, etc) so that it could serve our overall objective.

Polly Zehm wanted to know what limitations would be in place for all trust organizations to assist in selecting an NRD contractor. Keith stated there are some rules that DOE must follow in selecting a contractor and directed Joe Franco to find out what restrictions may apply to this process in allowing trustees to participate in actually selecting a contractor (Action Item 1). Polly was concerned that DOE must get buy off from the trust organizations prior to selecting a contractor and would not like to hear, "we are the contact office and we are moving on." This would be viewed as a failure of collaboration.

The group discussed what might be the content of an Assessment Plan. It would have study plans but it was determined that Senior Trustees were getting a little too specific at this time. The selected NRD contractor could prepare the Assessment Plan with deliverables that would be for all trust organizations. We should all agree on the

deliverables. The Assessment Plan itself could be reviewed at various stages of development.

The conversation shifted to doing a memorandum of agreement (MOA). Philip Rigdon strongly supports the idea of a MOA which would keep the trust organizations on task. Barbara Harper agreed that an MOA would be a good tool and would not allow the contract and contractor to define Trustee roles. Craig O'Connor felt that the existing MOU would still work. He was concerned that a new MOA would bog us down. It could take months to resolve. An MOA should be written as a last resort. Philip stated that the Yakama Nation was not happy with the current process and that a new MOA should have greater detail. He appreciated Keith's desire to work collaboratively but we may need a new MOA. Polly also felt that a new MOA could provide a process for us to follow, to move forward, and resolve conflicts.

Keith suggested we give collaboration a chance now that we have all agreed to proceed with conducting an NRDA. We should try to work together first and if we can make that work we can later institutionalize the process with an MOA if we want. Philip said that "ownership in the process" is what he was trying to get at with a new MOA.

Mike Grainey suggested and the group agreed that we should try to give some guidance to the technical staff for the white-board exercise in Portland in June. Barbara felt that DOE had too much control and one step away from DOE is needed and more control by Trustees. Keith was concerned that Barbara and others continue to see DOE as the responsible party. He wanted to reaffirm that DOE is a trustee and we want to work with the trust organizations to move forward. He observed that the current Trustee Council was set up to ensure Trustee input and concerns were factored into DOE's remedy selections. It is focused on the "response side" of CERCLA (i.e. cleanup actions) not the natural resource injury and damage assessment side. This may have to change.

Conversation shifted to DOE's track record in voting at Council meetings. There is a concern that DOE appears to be voting against any Resolutions or Findings that the Council puts forward. Craig then brought up the point that DOE goes so far then just pulls the plug. He went on to say that we must develop trust with each other. He questioned Keith on how much funding was available to hire the new NRDA contractor? Keith responded by stating that DOE identified approximately \$200,000 in FY07 for this effort. Craig felt that this is a reasonable amount. Ren Lohofener feels that we need to develop trust and move forward.

Keith noted that in designing a plan and schedules for developing the Damage Assessment, folks needed to understand some of our cleanup constraints, in particular the various cleanup activities and assessments that are being driven by enforceable agreement milestones. These activities involve many data collection and risk assessment efforts that could feed into or be enhanced by the NRDA activities. Either way, the two need to be coordinated. He asked Joe to cover a set of handouts, "Central Plateau Completion Schedule (DRAFT) and Associated Risk Assessments" and "River Corridor Completion Schedule (DRAFT) and Associated Risk Assessments" with Groundwater

Operable Units. Joe explained the two draft schedules. Barbara was concerned that tribal scenarios were not meshing in smoothly. Joe said that he will work on Barbara's concern. Ren wanted to know how the NRDA contractor would be interacting with the schedule and risk assessments. Joe said that for the River Corridor the information would be shared from Washington Closure Hanford to the NRDA contractor. Keith stated that the Assessment Plan would tie into actions by the Central Plateau, River Corridor and Groundwater Program.

Break

Prior to the break Polly suggested that after the break we take the pulse of the group regarding the path we seemed to be going just to be sure everyone was on board. During the break it was determined that the various trust organizations should talk internally and come back with additional questions on the NRDA path forward.

After the break Keith got things started again by asking if there were any questions. Ren said lets see if we can make this thing work. Philip made the point that funding was important in this process, and that the MOA is critical to show a commitment to funding. The YN see the \$200,000 as a start, but it will take more funding. Keith agreed that this is just a start and the NRD process will take more funding and resources in the future. DOE could also fund people to produce deliverables that would be called for under the NRDA Plan to be developed.

Polly wanted it to be known that the state of Washington supported this effort to move forward but there are practical concerns:

- Clear charge for trustees
- Set of principles must be developed for the NRDA contractor
- Setting up the proper construct is important
- Some kind of facilitation or intermediary between the new NRDA contractor and trustees is desirable
- Assure that the funding is used most wisely

Polly went on to say that this effort puts technical burden on each trust organization. It is unreasonable to expect that Ecology will give up other work to complete this work. Our concern will be to get the right resources focused to do the job.

Keith reviewed some of Polly's concerns and offered that the group put a list of expectations on the white board.

White board:

(The information below was copied directly off the white-board and flip charts as written. It does not signify agreement by the participating trust organizations.)

Expectations from NRTC

- Input for statement of work to design injury assessment plan & restoration
 - RFP out in a few months
 - Describe scope (purpose of contractor, plan of assessment)
 - Describe phasing of deliverables
 - Schedules
- Process and protocols
 - How to ensure collaboration, inclusiveness
 - Let go of baggage
 - Agree to compromise
- Recommend endpoints and how to get there
 - Habitat Equivalency Analysis
- Identify available data and data gaps
 - Some data will need to be acquired
- Contractor Qualifications
- Bring recommendation back to the Senior Trustees

Principles

- How we work together
 - What that charge looks like
 - We must define collaboration
 - Let science govern our path
- NRDA now rather than later
- Use existing data where possible
- Common understanding of collaboration
 - Level playing field
 - Science driven outcomes

Discussions after working on the white-boards:

Keith was concerned that the Trustees will go back to the same way of doing business if the Senior Trustees are not engaged. He hopes that the white-board exercise will result in good input to DOE that it could use to draft a Statement of Work that would then be reviewed by the Senior Trustees prior to the RFP itself. The proof that our collaborative process is working and we are achieving our mutual objective will be whether that product will be supported by all the Trustees. This is a learning process and we are all adapting as we move forward.

Jeff Tayer and Mike Grainey strongly encouraged the technical representative trustees to bring concrete issues to the Senior Trustees to resolve.

Larry Gadbois observed that this process that the trustees are engaged in could have multiple end points. Will the Senior Trustees make decisions on where to head? Jeff also was concerned about the end points. Barb made a general statement that the CTUIR and the NP each have an end state vision.

Discussions moved to facilitating the upcoming Trustee Council meeting in Portland on June 19-21. Jim Hansen has experience with facilitators and will get back to Joe with some suggestions. Polly recommended that Todd Martin, from the Hanford Advisory Board, be considered. Keith suggested that the trustees try to get someone who can help bring this group together both as a facilitator and as a NRD expert resource. Larry suggested, if necessary, that we consider two people, a content advisor and a facilitator.

Keith took the action to see if Todd Martin would be available to facilitate the Trustee Council meeting in Portland (Action Item #2).

Ren asked if the facilitator we select could also facilitate between the new NRDA contractor, site contractors and the trustees. Polly said that we needed to have a facilitator (project manager/NRDA contractor) type person as a go between or task master between the groups to help the Trustees move forward.

Shelly Hall, on the telephone, suggested that EPA may have a facilitator with good experience. Larry agreed that this was a possibility.

Keith and Mike agreed that the upcoming Portland meeting should be devoted to a white-board exercise by the technical trustee representatives to develop the general requirements for a statement of work for a NRDA contractor. The technical Trustees would present this information to the Senior Trustees on June 20th in Portland while the information was fresh on everyone's mind. The meeting ended at 3:55 PM.

Next Meeting

Senior Trustee will meet in Portland, Oregon on June 20th to review what the technical trustees have developed in the way of a statement of work and any other factors that it believes are important for DOE to use when putting together the RFP.

Actions

1. Joe Franco to find out what restrictions may apply to the contractor selection process in allowing trustees participation in selecting a contractor.

2. Keith Klein took the action to see if Todd Martin would be available to facilitate the Trustee Council meeting in Portland on June 19-21.
3. (Others took actions to help propose facilitators or other intermediaries that could help bring the Trustees and their Council Representatives together in developing collaborative work products leading to a Damage Assessment that could be supported by all)