

**Improving Communications with Tribes along U.S. Department of Energy Shipping  
Routes: Preparing for Yucca Mountain**

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**ABSTRACT**

This paper describes efforts by the U.S. Department of Energy's (DOE's) Office of Civilian Radioactive Waste Management (OCRWM) to initiate, coordinate, and improve communications with Native American Tribes along potential shipping routes to the geologic repository at Yucca Mountain, Nevada. The Office of National Transportation (ONT) within OCRWM is taking a collaborative approach that builds upon past working relationships between DOE and Tribal Nations. This paper focuses on those relationships, vehicles such as the Tribal Topic Group of the DOE Transportation External Coordination Working Group (TEC), and other recent interactions that ONT has been pursuing to strengthen existing partnerships and build new ones. It also offers lessons learned and goals for the future as ONT looks ahead to ensure appropriate coordination with Tribes on future shipments to Yucca Mountain.

**INTRODUCTION**

In 1987, Congress amended the Nuclear Waste Policy Act (NWPA) and directed DOE to study only one site for a nuclear waste repository: Yucca Mountain. In July 2002, Congress and the President approved the development of a geologic repository for disposal of spent nuclear fuel and high-level radioactive waste at Yucca Mountain. The site is located in a remote area of

Nevada about 100 miles northwest of Las Vegas. The Office of Repository Development is developing an application for obtaining approval from the U.S. Nuclear Regulatory Commission to construct and operate the repository.

The safe disposal of radioactive waste involves both technical and social issues. Transportation is a key element of the program that must be carefully planned and implemented before Yucca Mountain could start receiving spent nuclear fuel and high-level radioactive waste. ONT is developing a national and regionalized approach that interacts with program participants and other stakeholder organizations, including Tribal Nations to address transportation issues. A collaborative process with Tribes and other stakeholders will be integral to implementing a transportation system that is safe and secure and merits public confidence.

Transportation routes were analyzed in the *Final Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada*, (February 2002). Representative routes were identified using a computer model (currently called the Transportation Routing Analysis Geographic Information System [TRAGIS]) that contains a listing of Tribal lands and highway and railroad networks. Subsequent to the release of the EIS, Tribal Nations whose reservation boundaries fall within one-half mile of representative routes were identified<sup>1</sup>.

## **STRENGTHENING EXISTING PARTNERSHIPS AND BUILDING NEW ONES**

ONT will continue to build upon existing Tribal relationships forged through long-time participation in such national DOE sponsored organizations as TEC and the State and Tribal Government Working Group, past DOE shipping campaigns, and involvement in regional based groups such as the Yucca Mountain Native American Interaction Program. Efforts will be based on the *Strategic Plan for the Safe Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste to Yucca Mountain* and in compliance with DOE's *American Indian & Alaska Native Tribal Government Policy* and applicable DOE Directives.

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<sup>1</sup> The 39 Tribes: Absentee Shawnee Tribe of Oklahoma (OK), Agua Caliente Band of Cahuilla Indians (CA), Ak Chin Indian Community Council (AZ), Bear River Band of Rohnerville Rancheria (CA), Blue Lake Rancheria (CA), Cabazon Tribal Business Committee (CA), Cheyenne-Arapaho Tribes of Oklahoma (OK), Cocopah Tribal Council (AZ), Confederated Tribes of the Umatilla Indian Reservation (OR), Confederated Tribes of Warm Springs Reservation (OR), Coyote Valley Reservation (CA), Forest County Potawatomi Community of Wisconsin (WI), Fort Mojave Tribal Council (CA), Gila River Indian Community Council (AZ), Ho-Chunk Nation (WI), Hopi Tribal Council (AZ), Kickapoo Tribe of Oklahoma (OK), Las Vegas Paiute Tribe (NV), Moapa Band of Paiutes (NV), Mohegan Indian Tribe (CT), Morongo Band of Mission Indians (CA), Navajo Nation (AZ), Omaha Tribal Council (NE), Paiute Indian Tribe of Utah (UT), Pinoleville Reservation (CA), Prairie Island Indian Community (MN), Pueblo of Acoma (NM), Pueblo of Laguna (NM), Quechan Tribal Council (CA), Redwood Valley Reservation (CA), Sac & Fox Tribe of the Mississippi in Iowa (IA), Sac & Fox Nation of Oklahoma (OK), Seneca Nation of Indians (NY), Shoshone-Bannock Tribes Fort Hall Business Council (ID), Thlopthlocco Tribal Town (OK), Timbisha Shoshone Tribe (NV), Twenty-Nine Palms Band of Mission Indians (CA), Winnebago Tribal Council (NE), Ysleta del Sur Pueblo (TX)

### **Recent TEC Activities – Tribal Topic Group**

TEC was established in 1992 to improve coordination between DOE and external groups interested in the Department's transportation activities. OCRWM co-chairs TEC with the Office of Environmental Management. TEC provides an opportunity for broad based input and information exchange from organizations representing the utility and transportation industries, State, Tribal, and local governments, and police, fire, and emergency management professional organizations, and labor unions.

The TEC Tribal Topic Group was formed in 1998 at the request of TEC members. Tribal Topic Group membership includes representatives from 15 Tribes and Tribal organizations nationwide, as well as the DOE Director for Indian Affairs. The Group meets twice a year in conjunction with regularly scheduled teleconference calls with members. Tribal Topic Group members provide input on a host of transportation issues and policy questions including approaches for engaging Tribes along potential transportation routes, distribution and allocation methods for providing financial and technical assistance for emergency response training, and route methodology and alternative route selection. Meetings and conference call summaries are posted on the TEC Website at <http://www.tecworkinggroup.org>.

In September 2005, the Tribal Topic Group met in Pueblo, Colorado, following the semi-annual full TEC meeting. Members from 7 Tribal Nations participated in the proceedings; 5 of the 39 Tribes mentioned above were participants. The focus of the meeting was to address financial and technical assistance implementation for Tribes along potential Yucca Mountain shipping routes. Issues associated with this process are expected to be the primary topics for near-term discussions by the TEC Tribal Topic Group. Section 180(c) of the Nuclear Waste Policy Act (NWPA) states that DOE

“shall provide technical assistance and funds to ... Indian tribes through whose jurisdiction [DOE] plans to transport spent nuclear fuel or high-level radioactive waste... Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations.”

Based on discussions at recent Topic Group meetings, OCRWM staff members are developing a draft document to stimulate discussions with Tribal representatives on Section 180(c) funding and technical assistance related to the Yucca Mountain transportation program. This will address Tribal input DOE has received on transportation issues, a short description of the recommended approach for Tribes, and the next steps for working through the topics to refine and modify that approach.

Following are a few issues raised and recommendations made by Tribal representatives related to the OCRWM program, transportation, and 180(c):

- Inform Tribes before decisions are made;
- Explore regional/national meetings for the 39 Tribes;
- Develop a Tribal outreach strategy;
- Solicit greater participation of Tribes in the Topic Group;

- Develop Assessment Plan for Tribal priorities for funding;
- Create a simple application process to apply for funding;
- Appoint Tribal representatives to the grant application review board;
- Consider cultural and religious resources in transportation planning; and
- Examine consultation approaches with Tribes.

Although the funding and technical assistance approach for Tribes will be different than the one developed for States, it is expected that key issues identified by other OCRWM stakeholders, including States that have been involved with the program in the past will also be of interest to the Tribes:

- funding distribution method;
- allowable activities;
- definitions;
- contingency plans;
- 180(c) policy or rulemaking;
- timing and eligibility;
- funding for related activities; and
- funding allocation approach.

Based on issue papers developed in collaboration with ONT and the TEC Section 180(c) Topic Group, ONT is developing a *Federal Register Notice* on Section 180(c) activities and funding for States. This Notice, scheduled to be published in early 2006, could serve as a springboard for developing the Tribal initiative.

### **DOE State and Tribal Government Working Group**

DOE's State and Tribal Government Working Group (STGWG) is chaired by the Office of Environmental Management, and its Website is <http://web.em.doe.gov/stgwg/>. STGWG was formed in 1989 to coordinate the management, cleanup, and disposal of radioactive and hazardous chemical wastes at DOE facilities with State and Tribal governments. ONT has participated in the past several STGWG meetings. ONT will continue to participate in these meetings to provide OCRWM updates on transportation planning and interactions with States and Tribes, and take advantage of lessons learned from other DOE organizations and shipping programs.

### **2005 Letter to Tribal Leaders**

In March 2005, a letter from the Director of ONT was mailed to the 39 Tribal Leaders along representative routes to Yucca Mountain, requesting coordination on OCRWM transportation planning. The intent of the letter was to introduce OCRWM and its mission and communicate OCRWM's intent to work directly with potentially impacted Tribes to facilitate two-way communication. In addition, the letter requested feedback on the best approach for consulting with leaders of Tribes and their representatives.

Receipt of the March 2005 letter does not guarantee funding or technical assistance to any particular Tribe, and does not preclude DOE interaction with, or assistance to, other Tribes not on the list of 39. Future interactions and assistance will be based on a case-by-case analysis of Tribal needs related to Yucca Mountain transportation.

Follow-up activities began in August and included telephone contact with Tribal members to propose future discussions and meetings and provide information packages on OCRWM and ONT transportation activities. Key issues likely to be of concern to these Tribes are technical assistance and funds for training as provided in the NWPA, shipment notification, cask inspection, emergency response, and safety/security oversight.

### **Follow-up Meetings**

Over the last several months, ONT representatives have held meetings with Tribal representatives on the transportation program. These Tribes include the Confederated Tribes of the Umatilla Indian Reservation (OR), Las Vegas Paiute Tribe (NV), Agua Caliente Band of Cahuilla Indians (CA), Timbisha-Shoshone Tribe (NV), and the Navajo Nation (AZ). ONT plans to continue to convene meetings with Tribes in the upcoming months. Meetings with Tribal representatives are coordinated through DOE Tribal Points-of-Contact and local DOE program offices as appropriate. Because they have a day-to-day working relationship with local Tribes, ONT will rely on their experience and knowledge of those Tribes.

### **GENERAL LESSONS LEARNED**

Over the years, DOE outreach activities have resulted in the identification of several common themes in coordinating with Tribes. Some past lessons learned include:

- Consultation is key to a successful government-to-government relationship with Tribes and an important part of DOE's trust responsibility;
- Federal agencies should engage Tribes early on in the decision-making process;
- "Consultation" means different things to different entities;
- All Tribes are separate sovereign Nations and should be treated as such;
- One Tribal member cannot speak for his/her entire Tribe;
- Cultural awareness is a crucial element;
- Mutual respect between Federal agencies and Tribes is very important;
- National and regional organizations cannot speak for Tribes;
- Tribes have limited staff and resources, and there are frequent changes in leadership; and
- Federal agencies should not pit Tribe against Tribe in a competition for funding and technical assistance.

ONT will be mindful of these and other lessons learned from Tribal contacts as the program goes forward in pursuing Yucca Mountain transportation program activities and goals.

## **A LOOK TO THE FUTURE**

The DOE TEC Tribal Topic Group will encourage expanded participation by Tribal members associated with DOE transportation programs and future shipments to Yucca Mountain. Meetings will continue on a semi-annual basis, with conference calls held as necessary between meetings. Topic Group members will provide input on a host of implementation issues and policy questions, including how to engage Tribes along potential shipping routes, distribution and allocation methods for providing technical assistance and funds for emergency response training, and routing methodology and identification of potential routes.

In the near-term, an approach will be worked out for the Section 180(c) process, including a possible Grant Application package, and creation of a review board for Tribal applications. Tribal membership on the board will be important to ensure objectivity and understanding of the Tribal perspective. A *Federal Register Notice* will be prepared, and copies will be distributed to OCRWM Tribal contacts. ONT foresees strong Tribal participation in the development of the overall Section 180(c) approach and associated activities.

ONT will continue to follow-up with the 39 Tribes, and any others identified along potential Yucca Mountain shipping routes, to keep them informed and to obtain their input on crucial transportation decisions. Regional and national meetings with Tribes may become part of this followup activity.

ONT will participate in other DOE Tribal outreach efforts, including STGWG, and coordination with the DOE Director for Indian Affairs and regional DOE Tribal points-of-contact.

## **RECOMMENDATIONS WELCOMED**

ONT welcomes Tribal recommendations for interaction concerning Yucca Mountain transportation planning policies and procedures. Please contact Jay Jones at DOE Headquarters in Washington, DC, by phone at 202-586-1330 or email: [jay.jones@rw.doe.gov](mailto:jay.jones@rw.doe.gov). Letters should be addressed to:

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WM'06 Conference, February 26–March 2, 2006, Tucson, AZ

### **ADDITIONAL INFORMATION**

For additional information on the OCRWM Transportation Program, visit the OCRWM Website at <http://www.ocrwm.doe.gov> and click on “Waste Acceptance and Transportation.”

General information on DOE’s radioactive materials transportation programs is also available through the Transportation Resource Exchange Center (T-REX) at the University of New Mexico’s ATR Institute in Albuquerque, NM. The Website is <http://www.trex-center.org>.