

**Hanford Natural Resource Trustee Council**

**Council Meeting**

Tuesday, January 17, 2012, 8:00 a.m. - 5:00 p.m.  
 Wednesday, January 18, 2012, 8:00 a.m. - 5:00 p.m.  
 Thursday, January 19, 2012, 8:00 a.m. - 12:00 noon  
 Holiday Inn Downtown Yakima  
 802 East Yakima Avenue, Yakima, Washington

**MEETING SUMMARY, v4 - FINAL**

**Meeting Participants:**

Primary Trustees	Alternate Trustees	Others
Matt Johnson, Confederated Tribes of the Umatilla Indian Reservation (CTUIR) - via phone Dana Ward, U.S. Department of Energy (DOE) Russ MacRae, U.S. Fish and Wildlife Service (FWS) Charlene Andrade, National Oceanic and Atmospheric Administration (NOAA) Jack Bell, Nez Perce Tribe (NP) Paul Shaffer, State of Oregon (OR) - Tue & Wed Larry Goldstein, WA - via phone Tue Wade Riggsbee, Yakama Nation (YN)	Rico Cruz, CTUIR - via phone Wed Barbara Harper, CTUIR - via phone Wed Joe Bartoszek, FWS Dan Landeen, NP John Carleton, State of Washington, (WA), Department of Fish and Wildlife	Tammy Ash, HNRTC Project Coordinator Matt Johnson, CTUIR - via phone Alex Nazarai, CTUIR Connie Smith, DOE - via phone Marlene Zichlinsky, FWS - vie phone Wed Daniel Diedrich, NOAA - via phone Tue Jean Hays, WA, Department of Ecology Leah S. Aleck, YN - Tue & Wed Brian Barry, YN Russell Jim, YN - Wed & Thu Natalie Swan, YN Alix van Geel, Industrial Economics, Inc. (IEc) (DOE NRDA contractor) - via phone Wed Jen Kassakian, IEc - Wed & Thu Nadia Martin, IEc - via phone Tue Bob Unsworth, IEc - via phone Wed April Johnson, Mission Support Alliance (MSA) - via phone Tue Jennifer Linville, MSA - via phone Tue Steve Wisness, YAHS GS (contract support to DOE) Ruth Nicholson, Nicholson Facilitation & Associates, LLC (contractor)



H-0-6

Tuesday, January 17, 2012

### Opening and Adoption of Meeting Agenda

Jack Bell, Council chair, opened the meeting at 1:15 p.m.

### NOAA Trusteeship

Charlene Andrade expressed her concerns about the uncooperative atmosphere of the Council with respect to NOAA's participation, including that she felt NOAA's participation on the Council has been marginalized lately. She informed the Council that Craig O'Connor had signed the Memorandum of Agreement (MOA), which has been revised by NOAA to include NOAA as a formal member of the Council. She commented that NOAA considers the change to the MOA a revision, not an amendment, thus Council consensus was not needed for this change. She advised the Council she had been designated by Craig as NOAA's technical representative. Charlene also informed the Council that Craig had not yet contacted the other senior trustees to inform them of this change. Jack suggested that NOAA be treated as a voting member of the Council for this meeting. The other members agreed.

Jack discussed the need for Council members to formally identify and document their technical representatives and alternates in writing for the administrative record.

**ACTION 2012-23:** NOAA will distribute the revised MOA to all seven trustee organizations. Each Council member will share it with his senior trustee. Silence will be assumed acceptance of the new MOA.

**ACTION 2012-24:** Each Council member will document the authorized representatives for their organization and verify that the administrative record is accurate with respect to their organization.

### December Council Meeting Summary

Ruth Nicholson walked through the proposed changes to the December draft meeting summary from eight people, including seven Council members and IEC staff.

**DECISION 2012-9:** Wade Riggsbee made a motion to approve the summary for the December 15-16, 2011 Council meeting as amended. Paul Shaffer seconded the motion. The motion passed unanimously.

### Council Letterhead

Council members discussed their comments about the lettering and artwork on the revised logo.

**ACTION 2012-4:** Council members are asked to send their comments on the logo to Jack or Steve Wisness by February 3, 2012.

### Habitat Equivalency Analysis (HEA)/Resource Equivalency Analysis (REA) Workshop

Russ MacRae informed the Council the workshop will be held January 26, 2012, at the Ecology offices in Richland. He will be checking to see if a WEB-X can be set up for the workshop. He informed the Council that service flows will not be covered in any detail since it is too big a topic for a one-day workshop. Interest was expressed in working with a Hanford-specific scenario in the workshop.

### Fiscal Year 2012 (FY12) Budget

The Council has \$3 million dollars for its work in 2012. After subtracting out individual trustee organization participation costs, about \$1 million remains for Council operations and new studies. The Council anticipates allocating the balance of its FY12 money at its March meeting and developing SOWs to spend that money between March and May 2012. The statement of work (SOW) for the Data Management Plan is currently being developed by Tammy Ash, Charlene, and Jack. The Council anticipates taking action on this SOW in February.

### Contaminated Biota and Injury Study

Dan Landeen reviewed proposed change in database and the contaminants of concern (COC) list with the Council. Jennifer Linville and April Johnson from MSA discussed the use of the GiSdT database. There is a need to modify the SOW and get contractor approval to use contingency funding for the revised scope of work. A draft of the report will be provided for review 45 days prior to finalization.

Russ commented that he felt the list should be around 10 COCs for this project instead of the full list of 40 contaminants. The full list would be more appropriate for a risk assessment not an injury assessment.

**DECISION 2012-121:** Dana Ward made a motion that the list of contaminants known as the *HNRTC Revised Working COC List* be made the official list for the Contaminated Biota Injury Study and attached to this meeting summary (see next page). The motion was seconded by John Carleton. The vote was seven in favor (CTUIR, DOE, NOAA, NP, OR, WA, YN) and one opposed (FWS). The motion passed.

**ACTION 2012-25:** DOE action will modify the statement of work (SOW) and get contractor approval to use contingency funding for the revised SOW.

### Meeting with DOE on Integration

The meeting is scheduled for February 15, 2012, at 1:00 p.m. Tammy Ash and Larry Goldstein have been invited to attend with Jack. The Council pointed out that DOE has the Council letter on the 100-K Area Remedial Investigation (RI)/Feasibility Study (FS). Members suggested the data gap report might identify areas for integration via data collection opportunities associated with cleanup response actions.

Jack will develop a simple agenda for the meeting. He asked Council members for their thoughts on possible discussion topics.

The meeting adjourned at 5:00 p.m.



Wednesday, January 18, 2012

Jack opened the meeting at 8:45 a.m. He discussed the spreadsheet of suggested studies he had created based on a number of sources.

### Technical Working Group (TWG) Updates

#### *Groundwater*

Wade discussed past studies and potential future studies. There are some study proposals that he would like to integrate with the Source and Pathway TWG study proposals. There is also a need to address the concept of using detection limits as thresholds for determining injury. Barbara Harper has a presentation on the topic that she has made to the Groundwater TWG. It was suggested that Barbara give her presentation to the Council.

#### *Aquatic*

Charlene explained that the Aquatic TWG is recommending expanding the fish expert panel and creating a panel on upwelling. The group has also discussed possible mussel studies and concerns about pore water.

#### *Human Use*

Jean Hays reported that the Human Use TWG was interested in conducting a workshop on the Combined Habitat Assessment Protocol (CHAP). This would be a six-hour seminar conducted by the Northwest Habitat Institute. The group is interested in sending three people. The workshop would cost \$2,200, not including travel. It may be possible to schedule such a workshop in conjunction with the Council meeting in Oregon in May.

**ACTION 2012-26:** Jean and Charlene will develop the details of a possible CHAP workshop and develop a recommendation on holding a CHAP workshop and potential related topics.

#### *Terrestrial*

John reported that the group met in December but did not have a call in January. He reported that the TWG is trying to understand the existing data and has no new proposals for studies. An Upwelling expert panel is a higher priority than the Injury at the Cellular Level expert panel.

#### *Source and Pathway*

Dana reported that the lead and arsenic profiles were out for review. Lead and arsenic were used at Hanford as a weed control method. The TWG has discussed the Hanford Environmental Dose Reconstruction (HEDR) expert panel, the 100-K nitrate white paper, and the COC list. In addition, it will be getting a presentation on the tank waste environmental impact statement (EIS) at a future meeting. Paul said he would discuss the potential Upwelling expert panel with the Aquatic TWG.

### *Restoration*

Joe Bartoszek provided a draft work plan for a potential restoration project to the Council and discussed the objectives and background for the project. Jack suggested providing the section of the Draft Hanford Natural Resource Restoration Plan addressing restoration to the Council for approval.

### *Data Management*

Jack reported that the SOW for the Data Management System should be ready for review by the February Council meeting. Following approval of the SOW, it will be necessary to work through DOE for contracting the work.

### **Injury Study Planning and Project Development for FY12 and Beyond**

Jack reviewed the study list spreadsheet he had prepared for the Council.

**ACTION 2012-13:** Jack will review the spreadsheet for duplicate studies, update it with budget figures from the FY12 budget and FY13 budget request, and resend it to the TWG chairs.

### **Expert Panels**

The Council discussed the three expert panels it had approved at its October 2011 meeting:

#### *How to Identify Injury at the Cellular Level*

**DECISION 2012-122:** John made a motion to no longer pursue the How to Identify Injury at the Cellular Level expert panel under the IEC contract. Wade seconded the motion. The motion passed. Oregon abstained due to the absence of its representative due to adverse weather conditions.

#### *Effects of Radionuclides on Biota*

There will be a conference call later in January to further develop the details of this panel.

#### *HEDR*

The Council had previously referred the concept for this panel back to the Source and Pathway TWG. The Source and Pathway TWG had tasked Dana with determining if local experts were available to review HEDR data. DOE had expressed concerns with the formation of this panel with respect to the selection of panel members and the relationship of the panel to an existing lawsuit.

**DECISION 2012-123:** Dana made a motion to terminate the HEDR expert panel and seek alternative avenues to resolve air-emission injury questions. Russ seconded the motion. The motion passed. Oregon abstained.

## Preliminary Estimate of Damage (PED) Update

Jen Kassakian reported that the draft schedule and outline of the PED had been distributed with the intention of discussing them on the next PED conference call but not at this meeting. The monthly PED conference calls are on the Council/TWG Google calendar. Comments on the outline are welcome before or during the next call. Bob Unsworth explained his concerns with the resolution of issues identified by the Council. The Council discussed the following issues relative to the PED:

### *Discount rate*

Bob explained that a 3% discount rate was conventional for use in PEDs. There are analytic problems if a 0% rate is used. He suggested that the PED use a 3% discount rate and include a sensitivity analyses to determine the sensitivity of the results to the discount rate.

**DECISION 2012-124:** In a round-robin voice vote, the Council decided the 3% discount rate and an analysis of the sensitivity of the results to the discount rate was acceptable for the PED. Oregon abstained from the vote due to the absence of its representative due to adverse weather conditions.

### *Temporal Scope*

The contract for the PED directs the contractor to look at post-1980 losses. The PED outline describes the temporal scope on page 3 as follows:

*Injury quantification efforts will focus on the period beginning in 1981 and continuing until baseline conditions are reestablished (or considered permanent if baseline conditions are never reestablished). Contaminant releases and environmental conditions prior to 1981 may be evaluated to assist with the determination of baseline and/or assess ongoing injuries or the releases quantified where damages for such injury/injuries or the releases from which such damages resulted are indivisible pre- and post-1981.*

**DECISION 2012-125:** In a round-robin voice vote, the Council decided the temporal scope of the PED as described on page 3 of the outline was acceptable. Oregon was absent from the vote.

### *Institutional Controls*

Bob explained that access restrictions because of security considerations are not compensable under the Natural Resource Damage Assessment (NRDA) process. For the PED, he proposed evaluating each area on a case-by-case and site-by-site basis because there could be a variety of end states in different locations. Some Council members had concerns about this issue but were willing to cautiously live with this proposal for the PED.

**DECISION 2012-126:** In a round-robin voice vote, The Council decided that the site-by-site approach was acceptable for the PED. Oregon was absent from the vote.

### *Infrastructure*

Bob explained that injuries resulting from the construction of infrastructure not associated with a contaminant release are not compensable. The CTUIR disagreed with this view. Others on the Council suggested that these questions be dealt with on a case-by-case basis.

**DECISION 2012-127:** In a round-robin voice vote, DOE, FWS, NOAA, NP, WA, and YN agreed that for the PED, losses due to infrastructure would be limited to that infrastructure that is directly related to contaminant releases. CTUIR opposed this approach. Oregon was absent from the vote. The approach was approved for the PED.

### *Baseline*

Bob explained that the baseline is not a point in time or a type of habitat. The baseline assumes that everything happened as it happened, but there was no release of contaminants. If there was no release, there was no injury. He pointed out that the 100-K area would be used as an example in the first phase of the PED.

**DECISION 2012-128:** In a round-robin voice vote, the Council decided it could live with using this definition of baseline for the 100-K Area to determine how it will work. Oregon was absent from the vote.

### *Full Replacement*

Bob informed the Council that the PED may evaluate what it would cost to acquire the replacement or the equivalent of damaged areas on a resource-by-resource, service loss basis. However, the PED would not calculate the cost to simply replace acreage or the entire Hanford site.

**DECISION 2012-129:** In a round-robin voice vote, the Council decided this approach was acceptable. Oregon was absent from the vote.

### *Detection Limit*

Bob explained that the detection limit is a laboratory measure that does not define injury or identify risk. It is not used to calculate or identify injury. He also pointed out that non-detection does not determine the absence of injury. He indicated that the PED would use detection limits as an analytic tool to inform data analysis, not to identify or define injury.

The meeting was adjourned at 5:50 pm.

Thursday, January 19, 2012

### Overview of the Meeting

Jack opened the meeting at 8:40 a.m.

### Expert Panels

The Aquatic TWG recommended the formation of a fish and aquatics panel. The fish panel would be as large as two budgeted panels under the IEC contract due to the number of topics and panel members. Other new panels proposed were groundwater/vadose zone, upwelling, and chromium.

**DECISION 2012-130:** John made a motion to move forward with three expert panels under the IEC contract for fish/aquatics, groundwater/vadose zone, and upwelling. The motion was seconded by Wade. Oregon abstained due to the absence of its representative. The motion passed.

### IEC Updates

The final *Data Gaps Report* was issued January 10, 2012.

### Public Involvement

The new public involvement schedule was distributed to the Council. The decision date for public meetings has been pushed out four months due to a change in the Injury Assessment Plan (IAP) due date.

The email and letter soliciting NRDA interest went out earlier in the week.

### Fiscal Year 2014 Budget Development

Jack provided his budget sheet from his trustee organization to the Council as an example of calculating individual trustee requests for participation funds. The Council also discussed the need for a proposed budget and schedule for the entire NRDA program, including a cost estimate to implement the IAP, and the desire to do more strategic planning and project management.

Russell Jim read a statement from the Yakama Nation to the Council. He commented that the HNRTC is making the public whole. He expressed concerns with the transparency of the PED project, competing interests and conflicts for the Council members, and DOE funding cuts. He stated that the Treaty of 1855 is the supreme law of the land and discussed the importance of treaty resources.

**ACTION 2012-27:** IEC will develop a cost and schedule estimate for including an IAP implementation cost estimate in the IAP.

## February Agenda

The next Council meeting will be February 16-17, 2012 in Richland, Washington. The meeting will be a full day on February 16<sup>th</sup> and a half day on February 17. The following items are topics for the February meeting:

- FY12 budget allocation and discussion of strategic planning issues
- FY14 budget development, including study recommendations from the TWGs and participation estimates from individual trustee organizations
- Update from the February 15 meeting with DOE on integration
- Council action on the Data Management System SOW
- Discussion of detection limit issue
- Decision on possible CHAP workshop
- Presentation on the Phoenix GIS
- Decision on whether or not the PED will be considered a public document (Action Item 2012-22)
- TWG reports
- IEC updates, including update on the PED, Tribal Working Group, and public involvement
- Council logo and letterhead

The meeting adjourned at 11:45 a.m.