

HANFORD ADVISORY BOARD

A Site Specific Advisory Board, Chartered under the Federal Advisory Committee Act

Advising:

US Dept of Energy
US Environmental
Protection Agency
Washington State
Dept of Ecology

February 11, 2011

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Re: U.S. Department of Energy's Open Government Plan and the Hanford Community Relations Plan

Dear Ms. Triay, Messrs. Dowell, McCormick, Faulk and Ms. Hedges,

Background

President Obama's Open Government Directive of December 2009 required all federal agencies to adopt Open Government plans. Open Government plans are to be built around the following three principles:

Envirolssues

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HAB Consensus Advice # 240

Subject: U.S. DOE's Open Government Plan & the Hanford Community Relations Plan

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1. **Transparency**, which promotes accountability by providing the public with information about what the government is doing;
2. **Participation**, which allows members of the public to contribute ideas and expertise so government can make policies with the benefit of information that is widely dispersed in society; and
3. **Collaboration**, which improves the effectiveness of government by encouraging partnerships and cooperation.

Plans generated from the Open Government Directive are also supposed to incorporate and reflect the goals of improving public access to records via the Freedom of Information Act (FOIA) and new FOIA directives to federal agencies.

The U.S. Department of Energy (DOE) has developed and adopted its own version of this plan. However, DOE's Environmental Management (EM) program, which oversees the cleanup of the Hanford Site, does not have its own plan and is barely mentioned in the DOE-wide Open Government Plan.

The Hanford Advisory Board (Board) has been a strong and consistent advocate of citizen participation and involvement in the Hanford cleanup, and believes that DOE's EM program would benefit from development of an Open Government plan. An EM-specific plan would institutionalize the commitments to transparency, participation, and collaboration. Indeed, the Board's interactions with DOE and its regulators provide many examples of the benefits of meaningful participation and collaboration.

The purpose of this advice is to urge DOE to adopt an EM Open Government Plan. The Tri-Party Agreement (TPA) agencies have an existing Hanford Community Relations Plan (CRP)¹, which expands on some of the elements and principles in the Open Government Directive. This advice also urges the TPA agencies to update the CRP with Hanford-specific elements that flow out of the Board's broader advice to the agency on implementing the Open Government Directive and FOIA policies.

The EM Open Government Plan should detail efforts to improve transparency, participation, and collaboration, and should be paired with an updated Hanford Public Involvement Plan that outlines how Hanford will engage its stakeholders in on-going and upcoming cleanup decisions.

Beyond the overarching principles, the Open Government Directive requires several elements which the Board and regional stakeholders should play a key role in developing. These elements should include: 1) the identification and on-line availability of data which is of "high-value" to stakeholders seeking to comment on, or be involved in, cleanup

¹ This document is currently being updated and renamed the "Hanford Public Involvement Plan."

decisions; 2) new feedback mechanisms, including innovative tools and practices that create new and easier methods for public engagement; and 3) a requirement for at least one specific, new transparency, participation, or collaboration initiative that the agency is currently implementing, or will implement before the next update of the Open Government Plan.

Advice:

This advice urges DOE to adopt an EM Open Government Plan to implement the laudable goals and requirements described in the Open Government Directive. The Board further advises the TPA agencies to jointly update the Hanford Public Involvement Plan with Hanford-specific elements detailing how transparency, participation and collaboration will be enhanced between DOE, its regulators, Native American tribes, and the Hanford stakeholder community.

In addition, the Board advises:

- Both the EM Open Government plan and the Hanford Public Involvement Plan should have measurable commitments to improving transparency, participation, and openness, based on public input and annual stakeholder (including regulator and media) evaluation for updates.
- The EM program should consult with and work with its Site Specific Advisory Boards in developing its Open Government Plan. Public input forums should be held at each of the EM sites to solicit feedback.
- The agency-wide DOE Open Government Plan should be revised to include the key elements of the EM-Open Government Plan.
- All advisory board and advisory board committee meetings should be open to the public, except where meetings must be closed as required by law (e.g. for national security, personal privacy, or criminal investigation).
- The TPA agencies should consult and work with the Board in developing the Hanford Public Involvement Plan and ensure that Open Government principles are reflected in the site plan.
 - The Board should be involved in assisting DOE and its regulators in developing an annually updated strategic planning addendum for public involvement. The addendum would identify public involvement goals for upcoming major decisions; prioritize public comment periods for

meetings; and identify educational and other efforts to support public involvement goals.

- EM should work with its stakeholders to identify a list of high-value data, which should be readily accessible on-line. This data list should include information useful in participating and commenting on proposed cleanup decisions, such as risk data, budget data, current waste inventories and proposed disposition paths, performance in meeting compliance agreements, and cleanup unit investigation and monitoring data.
 - Access to independent health and risk data (e.g., EPA, National Institute for Occupational Safety and Health, Agency for Toxic Substances and Disease Registry) regarding current or future contamination and exposure levels should be a core component of transparency.
- On-line Hanford Site records should be linked by map to the associated units, and to all records in the Hanford Administrative Record that pertain to that unit. In addition, the Hanford Administrative Record must be made more user-friendly (e.g. searchable, organized, and indexed) and include all relevant records.
- DOE should commit to improving responses to FOIA requests and improving access to Hanford and other sites' records. This should include updated tracking of FOIA requests bi-weekly on DOE's website.
- The following specific items should be in both the EM Open Government and Hanford Public Involvement Plans:
 - Comment periods should be extended if a relevant record or study which DOE cites or relies upon in a submission to regulators is not available to the public at the beginning of the comment period or upon request.
 - Records relied upon for decision making on specific units should be indexed, with those indexes available to the public on-line as well as at reading rooms and repositories.
 - Access to reading rooms should be guaranteed for hours of convenience to the working public (e.g., not closing at 4 p.m. and during lunch hours).
- To improve transparency and participation, the DOE EM Open Government Plan, including the Hanford Public Involvement Plan, should commit that, and describe how, notices of proposals or comment periods will reflect the principle of "effective notice." These notices should disclose in understandable language how current conditions or a proposal may affect the concerns or values of stakeholders

(e.g., whether it will limit use of a resource, and disclose if there is a projected health risk).

- To implement the requirement that agencies change decision-making practices to reflect the open government principles, DOE EM's Open Government Plan and the Hanford Public Involvement Plan should commit that decision makers will review all comments and engage in a dialogue with Site Specific Advisory Boards regarding proposed responses to comments, prior to finalizing decisions and issuing a final response to comments.

Sincerely,

Susan Leckband, Chair
Hanford Advisory Board

This advice represents Board consensus for this specific topic. It should not be taken out of context to extrapolate Board agreement on other subject matters.

cc: Nick Ceto, Co-Deputy Designated Official, U.S. Department of Energy, Richland Operations Office
Catherine Brennan, U.S. Department of Energy, Headquarters
The Oregon and Washington Delegations