

National Geothermal Collaborative

Final Meeting Summary

Impediments to Siting on Federal and Tribal Lands Workgroup

February 28, 2003

RESOLVE, DC Office

In attendance:

Jessica Alcorn – White House Task Force on Energy Project Streamlining
Gordon Bloomquist – Washington State Univ.
Liz Battocletti – Bob Lawrence and Associates
Paul Dunlevy – Bureau of Land Management
Troy Gagliano – National Conference of State Legislators
Joel Renner – Idaho National Engineering and Environmental Laboratory
Arlene Rocobado – Southern California Edison

Guests:

Roy Mink – Department of Energy

RESOLVE Staff:

Kathleen Rutherford – RESOLVE Inc.
Jody Erikson – RESOLVE, Inc.

Susan Norwood – Department of Energy

Decisions Made:

Number	Decisions
1.	Ensure Tribal representation on the work group, if the document is to address tribal lands.
2.	The document will not be a comparative analysis of either policies or other energy sources (renewables, or oil and gas).
3.	The table of contents will reflect/will be the list of impediments.
4.	Each section/impediment will begin with a statement of the impediment illustrated in following paragraphs.
5.	The document will begin with the broader Access section (leasing), followed by the Siting section (permitting).
6.	Tribal Lands, Federal lands, and DOD lands will be addressed in separate sections.
7.	The Tribal lands and Federal lands sections will each include issues regarding tribal values.
8.	Direct use and electric generation issues will be integrated throughout the document, including their parallels and differences.
9.	The document will incorporate other workshop's recommendations into the recommendation section, but will not cite all of their findings.
10.	The list of conferences and timeline activities in the "Overview: Significant Recent Events & Impacts on Geothermal Programs" will be an appendix.
11.	The document will utilize existing cases (or relevant elements therein) to illustrate each impediment instead of describing one case study.
12.	The Background section will cover only background information that pertains directly to the report. Other background and history will be included in the Regulatory Overview section.
13.	The Regulatory Overview section will be renamed, "Geothermal Program and Regulatory Background."
14.	There will be more information regarding the regulatory background with regards to Tribal lands.
15.	The purpose section will broadly list agencies/departments with jurisdiction (DOI, DOD).
16.	Organize the Access and Siting sections by the impediments as they would unfold in a real

Action Items:

1. *Tribal Section*
 - ? Jessica Alcorn will assist Kathleen in gathering supporting documents and reviewing the text for accuracy and clarity.
2. *Geothermal Steam Act*
 - ? Gordon Bloomquist will provide a list of impediments from the Steam Act. (This may lead to a separate section devoted to the Steam act.)
3. *Illustrative Cases*
 - ? Gordon Bloomquist and Paul Dunlevy will provide the two legal cases in California regarding jurisdictional issues.
 - ? Paul Dunlevy will provide information regarding the lease application submitted in 1976 that remains to be processed.
4. *Individual Actions*
 - ? Joel Renner will provide the number for current production of electric generation in the “Geothermal Program” section.
 - ? Paul Dunlevy will provide a new quote for the Land Use Planning section that reflects the rewrite of Barbara Farhar’s (2003) report

Meeting Objectives:

The objective of this meeting was to review the purpose and scope of the Impediments report and the decision making process; to review the report and provide specific comments on the draft focusing on the organization, substantive information, and how the issues were framed; and clarify next steps.

Introduction:

After Kathleen welcomed the group and outlined the objectives and process for the day, individuals introduced themselves. Kathleen reported that there has been increased interest in the Impediments report, both in the product and work group membership.

The purpose of the work group, conceptualized at the first National Geothermal Collaborative (NGC) Steering Committee meeting, is to address the issues of impediments to siting geothermal power development and direct use in a two step process:

1. Generate a finding documents that reviews existing workshops and conference proceedings on the issue, clarify and synthesize the impediments
2. Utilize the findings document as a basis for convening one or a series of problem solving workshop (s) to explore and develop solutions to those issues identified as priority impediments.

Decision Making:

The following text is from the NGC Protocols (last revised 8/15/02). It is inserted here as a reference for clarity:

Consensus:

“The NGC is committed to working by consensus. That is, the organization and its members recognize that the credibility and authority of the NGC’s work products derive from the fact that they were developed through the cooperative efforts of a wide range of concerns and perspectives. Participants in the Collaborative will

work to craft consensus agreements – those recommendations about policy or practice that all participants can support.”

Consensus Documents:

All NGC documents are processed as consensus documents. “A consensus document is a publication for general release to the public with which all members are in general agreement...The working group with expertise in the subject matter in the proposed report is the first reviewer of the document. Once a revised draft is acceptable to the working group it is reviewed by the full NGC membership.” (NGC Protocols) The work group must have a consensus to recommend the document for NGC review.

Consensus Document Criteria:

“Consensus-document status is recommended for documents that meet one or more of the following criteria:

1. Analytic or prescriptive conclusions are presented on specific policies and/or pending legislation or rulemakings;
2. The subjects and issues addressed are characterized by a broad range of views”

Consensus for the Impediments Finding document is focused on how the document is written and whether it accurately identifies and expresses the spectrum of opinions and perceptions by which impediments are defined.

Scope of Work :

The work group discussed the Scope of Work and suggested changes, including those gathered prior to the meeting (see the Scope of work).

The Scope was expanded to include Tribal lands. It was noted that the Department of Interior (DOI) defines Tribal lands as Federal lands, while Bureau of Land Management (BLM) defines Tribal lands separately from Federal lands. The document will define them separately. The document will address impediments on Tribal lands and Federal lands, and tribal issues on both Tribal and Federal lands.

Tribal lands face many of the same impediments as federal lands, transmission, access, siting, infrastructure, etc. Split estate issues are also a challenge on Tribal lands. These lands have a unique challenge in duplication of processes due to being landlocked by Federal lands. This means there are Tribal processes to develop the resource, and Federal processes to get the power to market.

There was a discussion and concern expressed about utilization of the term Tribal Historic lands in the Findings document. Concerns went to where/whether the definition is codified. It was determined important to the group to use terms that are defined in legislation, regulation, or utilized by the agencies. One participant asserted that in fact USGS has six categories that delineate the term “Tribal Historic Lands.” These are lands of Tribal historic value that are not owned by a tribe. Consequently, the Tribal Historic lands will be addressed as tribal issues on Federal Lands.

As the group moved forward through the document one member mentioned that it would be good to remember that the intent of this group (the work group and the NGC) is to identify opportunities for change that promote geothermal power generation.

Purpose:

The group reviewed and revised the purpose to be more clear and accurate. There was a short discussion regarding whether to list relevant departments (DOI, DOD) or more narrowly as relevant agencies (BLM, BIA, USFS). The decision was to list them broadly to give a quick understanding.

Findings Document Review:

Kathleen focused the work group on the Siting and Access sections. These sections need the most participation from the work group- both in terms of data gaps that need to be addressed/clarified, and a need for a clear distinction between siting and access categorization.

The group discussed the order of the two sections and found that it was logical to begin with the broader Access issues and then move to the Siting issues. This is congruent with how a developer might encounter impediments chronologically (from access to siting).

The introduction needs to communicate the importance of this report to the NGC, which is that a majority of the geothermal resources are on Federal and Tribal lands.

An overall question was raised about the definition of impediment. For the purposes of this report, an impediment is construed as that which either unreasonably delays or halts the process necessary for resource development.

Geothermal Program Section

The range in the literature for the percentage of geothermal resource production used for electrical generation on federal lands stretches from 50%-80%. The group decided to not use percentages and will acquire the actual numbers from Joel Renner.

The question was raised but not answered as to how the document will account for undeveloped geothermal resources.

Overview: Significant Recent Events & Impacts on Geothermal Programs

This section needs to reflect that work has been done on these issues/impediments continuously for the past 30 years and that the increased level of attention at this time stems from an increased interest in development. One example of the increased level of attention is the creation of a White House Task Force on Energy Project Streamlining, established to review obstacles to development, and where appropriate, to expedite federal decision-making.

BLM's Implementation plan requires them to generate a findings report. The findings report is underway and is contracted to NREL, Barbara Farhar and Donna Heimiller's Report: *Opportunities For Near Term Geothermal Development on Public Lands in the Western United States*. Golden, CO. NREL. (2003). the second task was to study the results and has not yet been completed.

Access Section

The group evaluated the options for utilization of case studies, and which would best serve the needs of the document. Several options were mentioned:

- ? Utilize one worst case scenario to illustrate many impediments within one case.
- ? Utilize one success story and one worst case for each Siting and Access section
- ? Illustrate each impediment with a real life example, this may be only a portion of a case

Given the number of stakeholders and diversity in value systems at play in any given development scenario, concern was expressed that the range of perspective in case studies be represented fairly and factually.

The following is a list of possible cases mentioned throughout the meeting, which can be utilized to illustrate specific impediments: **NOTE: WE NEED HELP ON IDENTIFYING WHICH IMPEDIMENTS EACH BEST ILLUSTRATES**

- ? Newbury – access impediments
- ? Medicine Lake – access impediments, impediment to smaller developers participation; subjective and not complete (two outstanding suits)
- ? Bridgeport –
- ? Mammoth Lake – 2 agencies give leases five years apart
- ? Black Rock Desert – (see Gordon)
- ? Truck Haven – not completed yet
- ? Puna, Hawaii

This section needs to define KGRA; what is it, how does this classification affect the access/siting processes, who is advantaged, etc.

Cost/Budgeting

Royalties were not considered an impediment. Royalties could be addressed in the Geothermal Steam Act section (if one is deemed appropriate). Royalties are a possible solution. They could be utilized to fund the unfunded mandates.

One problem with royalties is that tribes are not authorized as recipients in the Steam Act

Other Impediments Mentioned:

There were several impediments raised throughout the meeting that either were not yet mentioned in the document or clearly included:

1. Land/acreage requirements. A private land owner is interested in direct use. They would only need to lease a small amount of the adjacent land. They are required to rent a minimum amount of acreage, which is too large for their needs (restrictions come from the Steam act; maximum per company).
2. No money for government entities to complete the appropriate environmental review, between the lease application and lease approval.
3. Land use plans do not include geothermal. For example, Forest Service completes a land use plan with no EIS for geothermal development. This forces BLM to issue an EA/EIS (OR, WA) specific to geothermal.

Workshops:

Purpose of the workshop is to generate possible solutions to the impediments to geothermal exploration and development on Federal and Tribal lands using the findings document as a compendium of identified impediments. The workgroup will need to develop criteria for evaluating issues and audiences for the workshop(s).

Potential Audiences:

Geothermal community (power generators and direct use)

Tribes

Legislators – (Although legislators will be invited the best use of their time is to give them the recommendations that come out of the workshops)

Potential Topic areas:

DOD lands

Tribal lands

Steam Act changes

Differences between Wind and Geothermal

Positive Unintended Consequences

Schedule:

It is critical to tie the workshops to other events and look for good partnering opportunities. For instance:

May - BLM to implement responsibility with Land Trust

July – ELKO Mining and Geothermal

September 9th - GPW State Summit

September 10th - Lessons Learned,

NGC, State leads, check integrated schedule for good partnership

Next Steps:

? The workgroup needs to enlist a representative from USFS and Environmental?????

? March 10th – RESOLVE will send Paul a copy of the draft as it is to date

? March 10th or 11th – Work group conference call

? March 16th – Members of the work group will provide materials to Kathleen to integrate into the document.

? March 27th – RESOLVE will distribute the next iteration of the draft – requires Kathleen having access to people and needed material

? March 28th – GEA meeting regarding changes to the Geothermal Steam Act. *This is not an opportunity to present the Findings Document. It must be an NGC consensus document to be presented. This meeting can inform the document.*

? April 8th – RESOLVE and the work group will distribute an iterative draft to the Steering Committee

? April 22nd – The NGC Steering Committee face-to-face meeting, the agenda will include a review of the findings document.

APPENDIX A

EDITORIAL CHANGES

SCOPE

Edit: add to the scope the report “will consolidate all findings.....values on federal **and tribal lands**”

Edit: “RESOLVE will compile... **Other sources of info....reg. framework.**

Edit: Identify opportunities for change that leads to geothermal development

Edit: Developing interagency to look at siting on tribal lands looking at 6-7 sites (?)

Edit: “The report will identify those interests...current leasing **and permitting**” the sentence to comparative...utilizing wind advantage (production tax credit, few access issues, wind can determine materials needed before applying for leasing)

Edit: “the doc. must include the work of the **White House task force on energy Project Streamlining.**

PURPOSE:

Edit: “Leasing **and development**” “leasing **and permitting**”

Definitions of Siting and Access:

Edit: Access – “that are **leasing** related” “pertaining to interagency.....cultural impacts **relating to planning and leasing in the departments of Interior, Agriculture, and Defense.**

Edit: “For the purposes of the....are **pre-leasing and leasing related**

Edit: Siting – “for the purposes of....directly to **post-leasing**” “on the ground including **all environmental review processes.**”

Edit: There was a short discussion regarding whether to list relevant departments (DOI, DOD) or more narrowly as relevant agencies (BLM, BIA, USFS). The decision was to list them broadly to give a quick understanding.

DOCUMENT:

Edit: Put in the definition of KGRA, how they are established, why lands in KGRA

Edit: Intro – NGC, Purpose (add sentence that a majority of existing development is on fed. Lands so we’re doing this report, and report background...and steam act...(last two sentences on p. 2)

Edit: Reg. overview – Geothermal Program, and move some background info

Edit: Geo. Program and Regulatory Background

*The question was raised but not answered as to how the document will account for undeveloped geothermal resources.

Edit: Reg. overview - **“A vast majority of future power generation and direct use development is expected to occur on federal and Tribal lands.”**

Edit: Move section to Regulatory Overview

***Include the State definitions of geothermal resource; water rights, surface rights or mineral rights and their jurisdiction**

Edit: Rewrite “Underpinning” paragraph – **“across jurisdictions....and leads to confusion in justification and delays in development.”**

Edit: Move “Split Estate” from p.10 to above/below Gordon Quote on p.3 General statement water estate, mineral estate and surface estate.

OVERVIEW: SIGNIFICANT RECENT EVENTS....

Edit: The topic of hydrogen and its production as a by-product of geothermal energy generation is worth mentioning in this section. For example, Salton Sea, the largest geothermal plant being built, has the capability to produce hydrogen as a by product.

SITING

Edit: P.11 two-tiered approach to replace the (p.4) three-tiered

ACCESS

Edit: Move Telephone flats and 4 mile glass mtn. into siting issues and not access...if tribes had been more aware...all had permits

Edit: Not include the #1. NEP because it is confusing ...leave #2

Edit: Outline - delete “Preventing”

Edit: Cost effectiveness not in access

Edit: Remove Solutions – this document does not detail solutions

Edit: CEQA – move to siting...timing issue there is no time requirement for BLM when an ER is begun

Edit: “Recently, The “BLM Office” add: For example a lease application in 1976 is still not processed...PAUL DUNLEVY will get this citation.

Edit: “Recently, the “ BLM ...Nevada” – **Change, remove last sentence**

Edit: This section needs to define KGRA; what is it, how does this classification affect the access/siting processes, who is advantaged, etc.

TIMEFRAME

Edit: Move the first quote to siting; Second quote remove “permitting process”

Edit: Find 2-3 quotes for need for timeframe

Edit: “land use classifications” change classifications to timely land use decisions

LAND USE PLANNING

Paul is rewriting Farhar’s report will give quote for this section

Paul help with first sentence

ROYALTIES

Edit: reword “inadequate funding”, unfunded mandates is better