

The Role of Local Governments in LTS: Thinking Outside the Box



Energy Communities Alliance

CLEANUP

LTS

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Leave contamination in place

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LTS

Encompasses all activities required to maintain an adequate level of protection to human health and the environment from the hazards posed by nuclear and/or chemical materials, waste, residual contamination or remaining infrastructure remaining **after** the strategy selection in **the ROD is implemented**

**“Why Do We Call it
Institutional Controls when
there are no institutions and no
controls”**

-Dan Miller
Colorado AGs Office

Thinking Outside the Box:

- ◆ Reality of LTS :
 - It is about saving money
- ◆ How can the Department save money and protect human health and the environment?
- ◆ What are the real implications for communities impacted by these decisions?
- ◆ How can we make it work?

Why Are Institutional Controls an Issue?

- ◆ Must ensure protection of the community at sites cleaned up to risk based levels
- ◆ No consensus on how LTS will work at sites cleaned up to risk based levels
- ◆ Unsure of future (health and financial) impacts of our present decisions

Goals of ECA/ELI Study

- ◆ To ensure that:
 - Understanding of the role of local governments
 - Ensure all levels of government understand the implications of relying on institutional controls
 - Sites cleaned up to future use risk based levels are and will be protective of human health and the environment

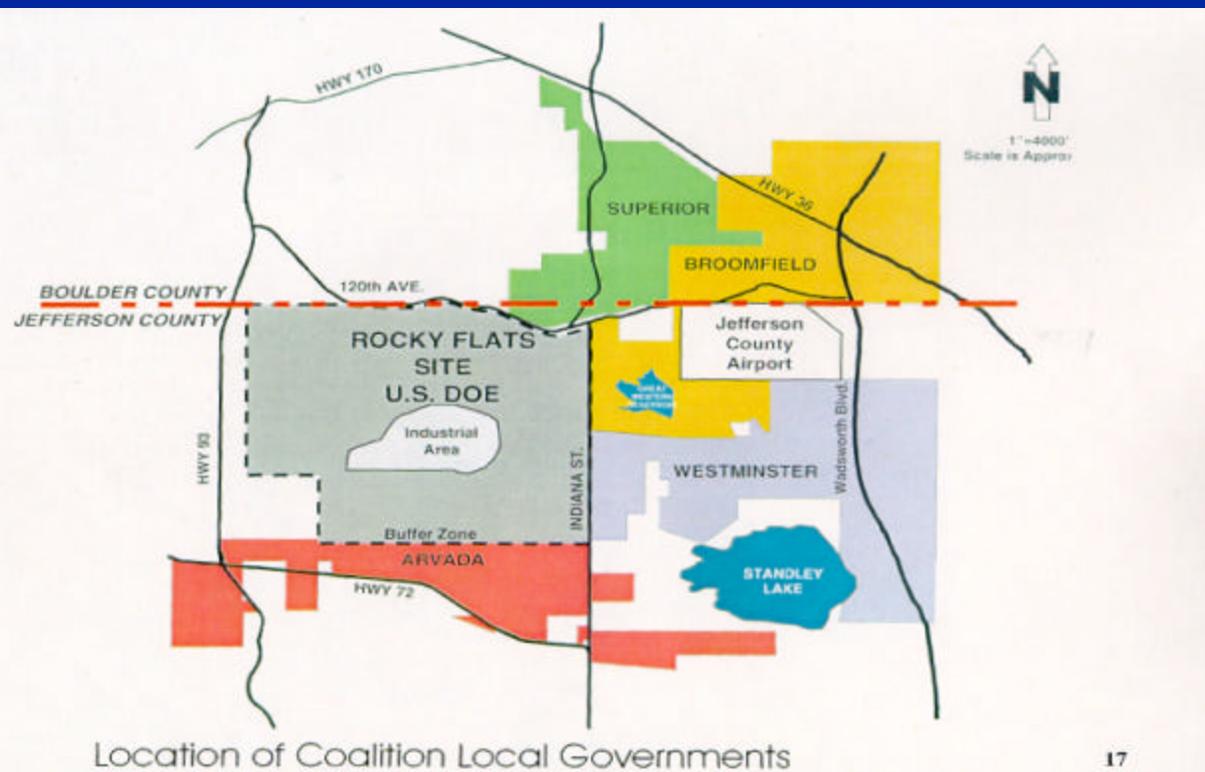


ECA/ELI Study

- Do localities have
 - an **interest** in working on LTS issues?
 - **The legal authority** to *implement and enforce* institutional controls?
 - **capacity** to implement and enforce the institutional controls and long-term stewardship?
 - **Ability to ensure safety** in the community at or around the sites?
- We must ask the same questions about DOE, EPA and States

Why Are LGs are interested in LTS

- ◆ Sites are located in and affect their communities.



Why Are LGs are interested in LTS

- LGs have a fundamental duty to provide for the health, safety, environment, quality of life, and economic future of their citizens.
- Contamination will remain in place when the “cleanup” is complete.
- LGs have some of the tools to implement LTS.
- Don't think that DOE can do it on its own

Commonly Available Tools

- ◆ Zoning
- ◆ Deeds Covenants
- ◆ Building Permits
- ◆ Subdivision Ordinance
- ◆ Demolition, Equipment Operation
- ◆ Infrastructure Fees
- ◆ Wetlands
- ◆ Water/Sewer connection Permits
- ◆ Development Agreements
- ◆ Special/Conditional Use Permits

Land Use Controls Will Be Relied Upon

- ◆ LTS depends on appropriate and effective legal mechanisms, physical controls, and other devices
- ◆ LGs are the primary implementers of land-use controls and information management with respect to land use and property ownership
- ◆ The long-term effectiveness will depend on LGs participating in and fulfilling a number of functions.

Findings

- ✓ LGs have the legal authority to control the development of real property
- ✓ Local laws not understood
- ✓ LTS not far along at sites
- ✓ LTS costs not known
- ✓ Parties to implement LTS not identified
- ✓ LGs have no direct role in cleanup processes at sites
- ✓ Most entities relying upon states to implement LTS
- ✓ Not important to decision makers – YET

Findings

- ✓ LGs interested in working on the issues
- ✓ LGs concerns
 - ✓ capacity and
 - ✓ liability
- ✓ LGs, States, Tribes willing to participate in LTS process – if funding is available
- ✓ LGs rely upon state to monitor contamination
- ✓ LGs have no significant experience implementing environmental LTS
- ✓ LTS education in beginning phases



Recommendations

- ◆ DOE and regulators should work directly with LGs
- ◆ LGs must be included in the decision-making process whenever they will be expected to carry out a role or responsibility in LTS
- ◆ National policy with specific guidance needed on LTS



Recommendations

- DOE, EPA, and the state regulators should integrate LTS processes into the cleanup decision-making process at all DOE sites.
- DOE, EPA, and the state regulators should improve their knowledge and understanding of the local laws and other tools that will be used for LTS – (most DOE, state and EPA decision makers do not know and understand the legal mechanisms available)



Recommendations

- DOE should analyze the opportunity cost to the community of the restricted use compared to an unrestricted use. Before deciding the remedy
- Where contamination is left in place – provide the community with information so they know where and what type of contamination will remain in place.
 - maps, databases, or other formats most useful to the local government.



Recommendations

- Fund LGS to pay for activities associated with LTS at DOE sites.
- DOE should work with LGs to develop training in how to adapt their expertise to the new situations of contaminated property



What should local governments Do?

- ◆ IF we assume LGs willing to participate in LTS –
- ◆ Onsite/Off-site issues
 - ICs implement tools in concert with DOE
 - Record keeping – libraries and museums
 - Public Information and dissemination – answer public questions/ liaison with federal government
 - Maintenance and monitoring of area (including signs, fences, caps, etc.)
 - Notice
 - Provide political support for remedies and long-term funding.

Conclusion

1. Begin to Work with LGs –
 - ◆ Are they involved at your site?
2. Establish and Implement a National Policy
3. Improve the Decision Making Process
 - ◆ Understand the laws, parties, costs, etc.
4. Provide Information to the Public
5. LTS needs to be integrated into the duties of relevant organizations



Questions comments or Suggestions

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