

# LESSONS LEARNED

September 2, 2003; Issue No. 36

Third Quarter FY 2003

## DOE NEPA Community Gauges Progress In Its Continuing Pursuit of Excellence

*"I believe we will never get to a point where we say this is done, there is nothing left to learn." – Beverly Cook*



"Are We There Yet?" – that is, has DOE achieved its goals for NEPA process improvement? – was the theme of the DOE NEPA Community Meeting on July 15 and 16, 2003.

Participants considered DOE's NEPA performance with respect to multiple objectives using a variety of measures, finding both substantial progress and room for improvement. The meeting included presentations on metrics, case studies, litigation issues, guidance topics, e-government, and information security, and discussion on where we should be going and how we can get there. (See related articles, pages 4-12.)

Beverly Cook, Assistant Secretary for Environment, Safety and Health, set the stage by offering her definition of the overall goal of the DOE NEPA compliance program. We're *there*, she said, "when NEPA is an integral part of decisionmaking and not an add-on." We're not quite there, but we're getting close, she concluded.

The NEPA process should serve the Department's daily business as a "tool, not a barrier," to achieve better

decisions, Ms. Cook told more than 75 people at DOE headquarters in Washington, DC, and another 70 participating from 18 Field Offices linked by video.

Ms. Cook emphasized that while she is ultimately responsible for DOE's NEPA compliance program, she wants Program and Field Offices to assume greater ownership of the process. She foresees a day when she can delegate more authority for EISs. One measure of when DOE is *there*, she said, is when "I can delegate that authority and go on vacation," confident that the NEPA process will be implemented properly. "If something goes wrong, I am still accountable," she reminded the audience.

Ms. Cook said she wants DOE to get to the point that the Office of NEPA Policy and Compliance "will no longer review your documents word for word. They will come in so good and so accurate and comprehensive, that they will meet the decisionmaker's needs and the public's needs." The NEPA Office could then concentrate on crosscutting policy issues, sensitive matters, and sharing lessons learned, she said.

*continued on page 3*



Revised Floodplain and Wetland Regulations Approved, see page 2.

## Inside *LESSONS LEARNED*

Welcome to the 36th quarterly report on lessons learned in the NEPA process. We are pleased to feature the July 2003 NEPA Community Meeting in this issue. Also, please note that the cumulative index, a useful reference tool, is printed in this issue. Thank you for your continuing support of the Lessons Learned program.

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*Carol Borgstrom*

Director  
Office of NEPA Policy and Compliance

## Be Part of Lessons Learned

### We Welcome Your Contributions

We welcome suggestions, comments, and contributed drafts for the *Lessons Learned Quarterly Report*. We especially seek case studies illustrating successful NEPA practices.

Draft articles for the next issue are requested by November 3, 2003. Contact Yardena Mansoor at [yardena.mansoor@eh.doe.gov](mailto:yardena.mansoor@eh.doe.gov) or 202-586-9326.

### Quarterly Questionnaires Due November 3, 2003

Lessons Learned Questionnaires for NEPA documents completed during the fourth quarter of fiscal year 2003 (July 1 through September 30, 2003) should be submitted by November 3, but preferably as soon as possible after document completion. The Questionnaire is available interactively on the DOE NEPA Web site at [tis.eh.doe.gov/nepa](http://tis.eh.doe.gov/nepa) under Lessons Learned Quarterly Reports. For Questionnaire issues, contact Vivian Bowie at [vivian.bowie@eh.doe.gov](mailto:vivian.bowie@eh.doe.gov) or 202-586-1771.

### LLQR Online

Current and past issues of the *Lessons Learned Quarterly Report* are available on the DOE NEPA Web site at [tis.eh.doe.gov/nepa](http://tis.eh.doe.gov/nepa). Also on the Web site is a cumulative index of the *Lessons Learned Quarterly Report*. The index is printed in the September issue each year.

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## Floodplain and Wetland Regulations Effective September 26, 2003

To reduce procedural burdens and add flexibility to its environmental protection program, DOE has revised its regulations for *Compliance with Floodplain and Wetland Environmental Review Requirements*, 10 CFR Part 1022 (68 FR 51429, August 27, 2003, effective September 26, 2003). The revisions are based on over 20 years experience with the existing regulations, first issued in 1979.

Under the new regulations, more classes of action will be exempt from assessment; about half of the assessments prepared since 1994 would not have been required had these exemptions been in place. Public notice procedures are simplified by emphasizing local media instead of the *Federal Register* (unless an action may result in effects of national concern). The environmental review process under the Comprehensive Environmental Response, Compensation, and Liability Act is now an alternative to using the NEPA process for compliance with the regulations. Immediate action can be taken in an emergency. Other changes make the rule easier to use and update resources for identifying floodplains and wetlands. There are no new requirements in the revised rule. (The scope of the revisions was further described in *LLQR*, December 2002, page 3.)

### Response to Comments Required No Substantial Revision to Proposed Rule

DOE received three sets of public comments on the proposed regulations (67 FR 69487, November 18, 2002). Responding to requests to clarify terms in the regulations, DOE added a definition of "effects of national concern," examples for actions exempt from assessment, and examples of government agencies to be notified and given documents. Responding to concerns about DOE's discretion to issue a floodplain statement of findings in a final EIS or separately, and the conforming change to the DOE NEPA regulations at 10 CFR 1021.313(c), DOE explained in the preamble that steps to mitigate impacts (that must be identified in the statement of findings) may not be determined until after a final EIS is issued.

For more information on the regulations or on implementation guidance being prepared, contact Carolyn Osborne, Office of NEPA Policy and Compliance, at [carolyn.osborne@eh.doe.gov](mailto:carolyn.osborne@eh.doe.gov) or 202-586-4596. 

# DOE NEPA Community Meeting

(continued from page 1)

Reinforcing Ms. Cook's remarks, Eric Cohen, Unit Leader, NEPA Office, said that what matters is whether the NEPA process meets the needs of the Department, "not whether we do an EIS in 15 months."

Mr. Cohen proposed this goal for the DOE NEPA compliance program:

*We have an effective NEPA process that meets the needs of the Department – enabling the timely accomplishment of DOE missions in a safe and environmentally sound manner. The process is cost effective; provides decisionmakers with objective, high-quality information; builds public trust; and is robust enough to withstand decision changes and legal challenges. The process encourages decisionmakers to use NEPA.*

## How Far Along?

Mr. Cohen then offered various measures of cost, time, quality, and effectiveness to gauge whether DOE is meeting this goal. (See related article, page 4.) The data support the conclusion that DOE's NEPA process is meeting the Department's needs. The process is flexible enough to accommodate programmatic and project needs. Further, when driven by strong management attention, EISs for complex proposals have been completed in 15 months or less, the goal established by DOE policy in 1994. Six program offices and two power administrations have achieved this goal for both controversial and programmatic EISs. In about half those EISs, the 15-month schedule was maintained while providing the public more than the minimum 45-day period for review and comment on the draft EIS.

"Most often, we have management intimately involved in the issues as they arise" when completing an EIS on a fast schedule, explained Mr. Cohen.



Eric Cohen, NEPA Office, assessed data on NEPA performance metrics collected over the past 10 years.

DOE takes more than 15 months to complete many EISs, though. The NEPA Office looked for underlying reasons for the longer schedules and concluded that most "were not on the critical path," according to Mr. Cohen. Moreover, he added, DOE intentionally extends the schedule for some EISs to satisfy program purposes such as changes in scope, completion of parallel studies, coordination among multiple programs or DOE sites, and inclusion of cooperating agencies in EIS preparation.

Mr. Cohen also addressed several indicators of the quality of DOE EISs. Although quality is inherently difficult to quantify, he said, Environmental Protection Agency ratings, reports of Lessons Learned Questionnaire respondents (on NEPA process usefulness, mitigation, and protection of the environment), and DOE's litigation record for EISs suggest that DOE is producing quality EISs that serve to protect the environment while meeting mission needs.

## A Broader Perspective on "Where Is There?"

Horst Greczmiel, Associate Director for NEPA Oversight, Council on Environmental Quality (CEQ), provided an

*DOE doesn't bring a lot of business to my desk, which means you're doing something right.*

— Horst Greczmiel, CEQ

update on CEQ's NEPA Task Force, which he chairs. The Task Force was created in May 2002 to "seek ways to improve and modernize NEPA analyses and documentation and to foster improved coordination among all levels of government and the public." The Task Force is preparing to issue its report. (See *LLQR*, December 2002, page 1.)

The Task Force will recommend to James Connaughton, CEQ Chair, several steps that could improve NEPA implementation and issues that deserve further study, Mr. Greczmiel said. The Task Force reviewed input from Federal staff; tribal, state, and local governments; non-profit and business groups; and the public at large.

The Task Force found that Federal agencies have been successful in handling security-sensitive information in the NEPA process, but that further review could lead to improved procedures, Mr. Greczmiel said.

The Task Force looked closely at the role of emerging information technology in the NEPA process and is expected to recommend ways to make better use of

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# Metrics Show Progress in Meeting Goals

To assess DOE's progress in meeting its NEPA performance goals, Eric Cohen analyzed data on NEPA performance metrics collected over the past 10 years as part of the Lessons Learned process. His presentation, summarized below, focused on cost, time, quality, usefulness to the decisionmaker, protection of the environment, litigation, and flexibility.

## Costs Are Decreasing

Ninety to 95 percent of DOE NEPA costs are associated with EISs (Figure 1). Since DOE began measuring NEPA document preparation costs in 1994, DOE's total annual NEPA costs have decreased substantially, from over \$100 million in 1995 and 1996, to less than \$10 million in recent years. (A spike in the cost for 2002 reflects the completion of a single, extraordinary document.)

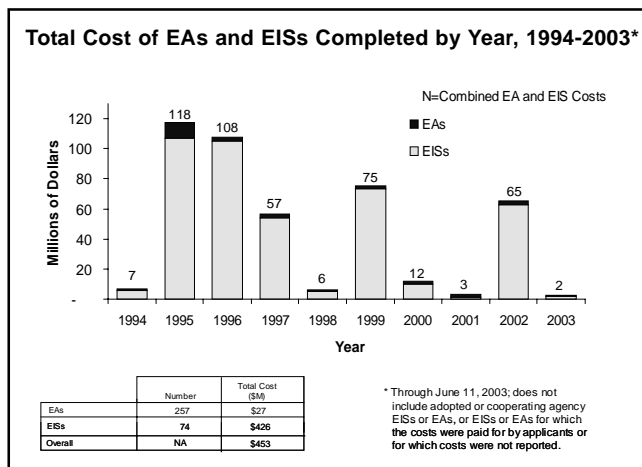


Figure 1

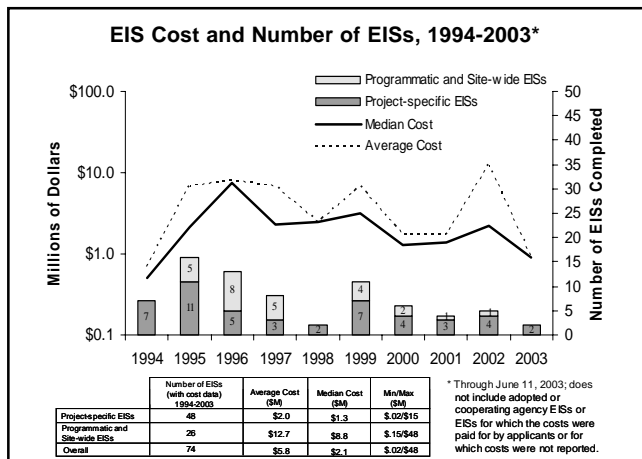


Figure 2

Two primary reasons for the cost decrease include (1) the completion of 22 relatively more expensive programmatic and site-wide EISs (PEISs) from 1995 to 1999 (the median cost of a PEIS is \$8.8 million vs. \$1.3 million for a project-specific EIS) and (2) a decrease in the number of EISs completed each year from about 10 to five (Figure 2). Other probable contributors to the cost decrease include the fact that DOE began measuring and reporting costs in 1994 (an example of the so-called "Hawthorne Effect" in which the act of measurement influences the result), and efficiencies from the tiering of project-specific documents from PEISs.

DOE has made a major investment in PEISs. Although a few PEISs were quite costly, data show that NEPA process costs, including those for PEISs, are a small fraction – typically less than one percent – of estimated costs of associated programs and projects. Further, part of the costs reported for some PEISs were for project expenses that do not qualify as NEPA costs.

Overall, EIS costs are decreasing and are not an obstacle to mission implementation. We are "getting there." Nevertheless, DOE can do even better, such as by implementing suggestions to further reduce document preparation costs contained in mini-guidance articles in *Lessons Learned Quarterly Report*. (See the DOE NEPA Web site at [tis.eh.doe.gov/nepa](http://tis.eh.doe.gov/nepa) under Guidance.)

## Completion Times Meet Needs

EIS completion time is an important NEPA process metric because decisionmakers often are concerned that the EIS process will delay implementing priority missions. For this reason, the Secretarial Policy on NEPA in 1994 established a median EIS completion time goal of 15 months, and DOE Order 451.1B, DOE NEPA Compliance Program, directed that EIS schedules, absent extraordinary circumstances, will provide for 15-month completion times. Completion time is measured from notice of intent to approval of the final EIS.

The median completion time for the 87 EISs completed from 1994 through May 2003 was 25 months (about 20 months for 60 project-specific documents and 31 months for 27 PEISs). The range was seven to 86 months. A time series presentation (Figure 3) shows a flat trend; completion times vary widely but have not

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# Metrics

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increased or decreased significantly. Although DOE has not met the median 15-month completion time goal for the 87 EISs completed in the past 10 years, a closer look at the data shows that DOE is meeting its timing needs.

Figure 4 shows that the distribution of DOE EIS completion times is skewed. Most EISs have relatively short completion times; the mode, or most frequent completion time, is 15 months. However, the distribution has a long “tail” that includes a significant number of EISs with long completion times (greater than 40 months). Much can be learned from studying the EISs with long and short completion times.

Most EISs with long completion times met program needs and did not delay projects or missions. These EISs were not on the “critical path.” For example, several such EISs were for Power Marketing Administration program plans

and were completed when they needed to be. Many other EISs intentionally were prepared under schedules that exceeded 15 months to enable completion of associated studies, public participation, or accommodation of the needs of cooperating agencies. Further, many EISs are started and placed “on hold” because of project uncertainties; one document will be completed this year after being on hold for about seven years. (The NEPA Office recommends suspending and reactivating such EISs. See *LLQR*, June 2003, Page 9.) If these long completion time EIS outliers were discounted, the median completion time for the remaining documents would be close to 15 months.

What counts, however, is not whether DOE can complete an EIS in 15 months, but whether it can prepare a quality document in time to meet mission needs. Twenty-four of the 87 EISs were completed in 15 months or less. These included some of the Department’s most highly-complex and controversial EISs, including: *Dual Axis Radiographic Hydrodynamic Test Facility* (9 months; DOE/EIS-0228;1995); *PEIS for Tritium Supply and Recycling* (12 months; DOE/EIS-0161; 1995); *Disposition of Surplus Highly Enriched Uranium* (14 months; DOE/EIS-0240; 1996); *PEIS for Stockpile Stewardship and Management* (15 months; DOE/EIS-0236; 1996); and *PEIS for Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States, including the Role of the Fast Flux Test Facility* (15 months; DOE/EIS-0310; 2000).

**The data show that when DOE needs to complete an EIS quickly, it can do so.**

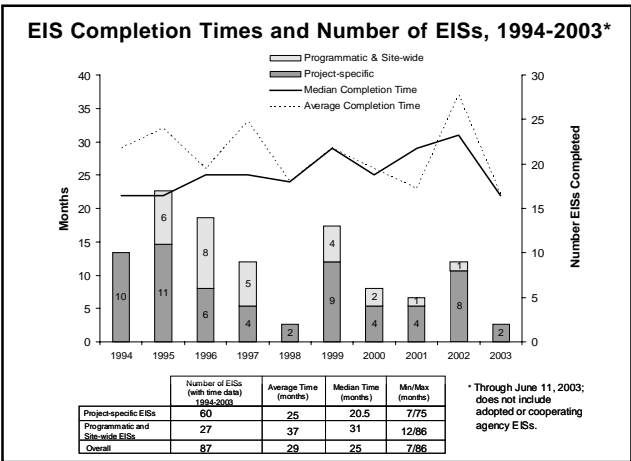


Figure 3

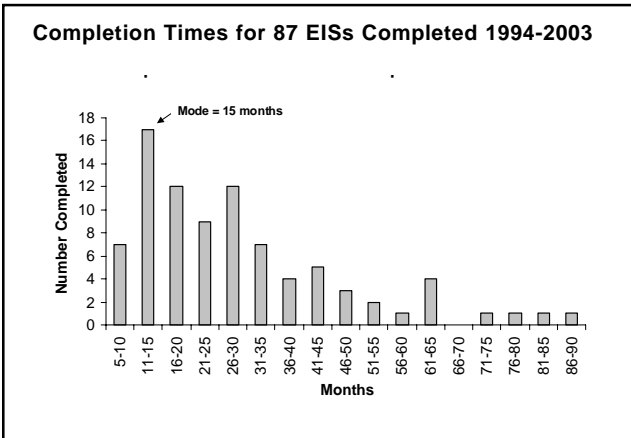


Figure 4

Preparing an EIS in 15 months does not require providing minimum public comment periods. Ten of the 24 EISs completed within 15 months had public comment periods ranging from 50 to 90 days. Experience shows that cutting corners on public participation is counter productive; in several cases, an initial short comment period was extended, exceeding the comment periods for arguably similar EISs with longer original comment periods. DOE extends the comment period for about 25 percent of its draft EISs; the average extension period is 30 days. The average draft EIS comment period is 65 days (80 days for PEISs and 60 days for project-specific documents).

What, then, are the most important factors that affect EIS completion times? Based on analysis of Lessons Learned Questionnaire responses, management attention is key. Other factors associated with short completion times

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# Metrics

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include a strong preparation team with dedicated members and appropriate skills, and excellent communications among team members, including reviewers.

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***The most important factor associated with short EIS completion times is management attention to the scope, issues, and schedule.***

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On the other hand, factors associated with long completion times include poor scope definition (including changes in the proposal and late identification of analytical needs), the involvement of multiple sites and programs, and

the involvement of cooperating agencies. Experience shows that involving cooperating agencies improves the ability to implement proposed actions and offsets any loss of time.

### Quality Indicators Show Strong Performance

**Quality.** Environmental Protection Agency (EPA) ratings offer one measure of quality. EPA data show that ratings for DOE draft EISs do not differ from those for other agencies: about 20 percent receive “LO,” 77 percent receive “EC-2,” and 3 percent receive “EO.” None of the 87 EISs received an EU rating. (See page 25 for an explanation of the ratings.)

**Usefulness.** Lessons Learned Questionnaire responses include a simple numerical rating from one to five for DOE NEPA documents in terms of effectiveness, including influence on decisionmaking. (See page 32 for a further explanation and the results for documents completed this quarter.) Most respondents (about 75 percent) have rated the NEPA process as “effective.”

**Protection of the Environment.** Questionnaire respondents also report on how the NEPA process served to protect the environment. Many respondents who stated that the NEPA process did not influence decisionmaking nonetheless noted that the process served to protect the environment, such as through identification of alternatives and consideration of mitigation.

**Litigation.** Last year Under Secretary Card praised DOE’s “stellar” EIS litigation track record. (See *LLQR*, September 2002, page 1.) Project delays have resulted from failure to prepare an EIS; no delays have resulted from DOE’s inability to defend a final EIS.

### Flexibility Is Inherent in NEPA

Although some DOE managers have expressed concern that NEPA is too inflexible to accommodate small changes or advances in technology, experience shows that NEPA is an inherently flexible process. With regard to flexibility, we are *there* now. For example, by analyzing the full range of reasonable alternatives, decisionmakers have substantial flexibility to change their minds. A common misunderstanding is that an EIS ROD locks an agency to a particular decision. However, NEPA does not require that the outcome of an EIS be a single, unchangeable decision. (See *LLQR*, June 2003, page 4.)

One measure of flexibility is the number of RODs issued for an original EIS. DOE EISs have proven sufficiently robust that they can support multiple RODs (in some cases supported by supplement analyses [SAs]). For example, DOE has issued seven RODs for the *Waste Management FEIS for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste* (DOE/EIS-0200; 1997); nine for the EIS on *Interim Management of Nuclear Materials* (DOE/EIS-0220; 1995); and three for the *Surplus Plutonium Disposition FEIS* (DOE/EIS-0283; 1999).

Another measure of flexibility is the number of SAs issued that conclude that a supplemental EIS is not required. SAs are a DOE tool that substantially increases flexibility by helping to decide whether a new or supplemental EIS is warranted for small changes in a proposal. DOE programs such as Environmental Management and Defense Programs are making increasing use of this tool. The Bonneville Power Administration has issued about 200 SAs based on the EISs for *Watershed Management* (DOE/EIS-0265; 1997) and *Transmission System Vegetation Management Program* (DOE/EIS-0285; 2000).

Overall, although DOE has made substantial progress, when we ask the question “Are we *there* yet?” we always find something to improve on. **LL**

### NEPA Trivia

(from the NEPA Community Meeting)

1. How much did the 1988 EIS for the Superconducting Super Collider weigh?

Answer on page 24.

# Help in Getting from *Here* to *There*

## Status of Guidance and Regulation Development

NEPA guidance will assist DOE Program and Field Offices in assuming greater ownership of their NEPA compliance programs. Carolyn Osborne, Unit Leader, Office of NEPA Policy and Compliance, presented the highlights of guidance recently issued and prepared in draft form by the NEPA Office.

Ms. Osborne also asked for input on priorities for preparation of additional guidance. “We need members of the DOE NEPA Community to tell us what their greatest guidance needs are,” she said.

Existing guidance and regulations are available on the DOE NEPA Web site at [tis.eh.doe.gov/nepa](http://tis.eh.doe.gov/nepa) under Guidance.

### Interim Actions

“Guidance Regarding Actions That May Proceed During the National Environmental Policy Act (NEPA) Process: Interim Actions” was issued by the Assistant Secretary for Environment, Safety and Health on June 17, 2003. The guidance explains how to apply Council on Environmental Quality criteria for interim actions for both project-specific and programmatic EISs. For example, to help apply correctly one of the criteria for project-specific EISs – that an interim action not have an adverse impact – the guidance defines “adverse” impact and distinguishes it from “negative” impact. The guidance, however, emphasizes the need for situation- and resource-specific judgment on whether an impact would be adverse. See *LLQR*, March 2002, page 6, concerning the scope of the guidance.

### Revisions to 10 CFR Part 1022 Compliance with Floodplain and Wetland Environmental Review Requirements

The final regulation was approved on August 19, 2003. See related article, page 2.

### Comment-Response Guidance

The NEPA Office is addressing NEPA Compliance Officer comments on the July 2003 working draft guidance and evaluating examples of best practices to include in the guidance. The NEPA Office plans to issue the guidance this fall. The guidance will recommend continued involvement and interaction among subject matter experts and EIS writers (from the receipt of comments through their resolution). The guidance also will address special issues that arise in our NEPA practice – e.g., receipt of mass comments and dealing

with responsible opposing views. The guidance will advocate the equal treatment of each substantive comment (whether expressed by one respondent or many) and emphasize that the comment-response process is not a vote-counting process.

See *LLQR*, June 2003, page 1, for preliminary results from an examination of comment-response sections in recent final EISs.

### Guidance in Preparation

#### *On Document Preparation*


- Alternatives Analysis
- Environmental Justice Considerations in the NEPA Process
- How-to for NEPA Sections 102(2)(C)(ii), (iv), and (v)
- Qs and As on Floodplain and Wetland Regulations
- Supplement Analysis
- Update – Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements (1993)

#### *On the NEPA Process*

- Environmental Management Systems and NEPA Integration
- EIS distribution
- Stakeholder Database (to support document distribution)
- NEPA Process Brochures
- “Section 216” Guidance

#### *On NEPA-related Reports and Guidance Collections*

- Annual Planning Summaries
- Update – DOE NEPA Compliance Guide (1998)
- Update – Mini-guidance Articles from *Lessons Learned Quarterly Reports* (2000)

The NEPA Office continues to evaluate responses received from an informal survey of the DOE NEPA Community on guidance priorities and other options (e.g., training by the NEPA Office). NEPA Compliance Officers have indicated a priority need for guidance on preparing a Supplement Analysis and on using the new floodplain and wetland regulations. They also indicate an interest in additional categorical exclusions, EA format guidance, and changes to DOE Order 451.1B, NEPA Compliance Program. 

## Case Studies: Lessons Learned Along the Way

Recent EISs were used to illustrate important themes at this year's NEPA Community Meeting. In a series of three panel discussions titled "Lessons Learned Along the Way," NEPA Compliance Officers (NCOs) and staff from the Offices of General Counsel and of NEPA Policy and Compliance described ways that analyzing a broad range of alternatives and utilizing innovative NEPA planning can maximize program flexibility. They also reviewed recent litigation and identified several valuable lessons learned.

### EIS Flexibility and Decisionmaking

Hitesh Nigam, NCO for the National Nuclear Security Administration's (NNSA's) Office of Defense Nuclear Nonproliferation, described the NEPA history of the



*Hitesh Nigam said that an amended ROD can be prepared by any Program Office within DOE; it doesn't have to be the one that originally prepared the EIS.*

surplus plutonium disposition program. NEPA documents for the program include *Storage and Disposition of Weapons-Usable Fissile Materials* Programmatic EIS (DOE/EIS-0229; 1996), the tiered, project-specific *Surplus Plutonium Disposition* EIS (DOE/EIS-0283; 1999), and three supplement analyses. Together these documents examined dozens of plutonium storage and disposition alternatives.

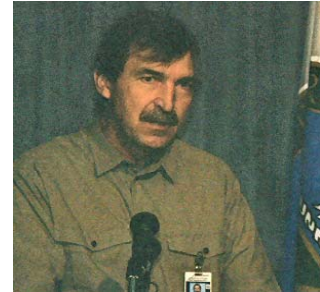
As budget and circumstances changed, the comprehensive nature of the NEPA reviews supported changes in NNSA program plans and

allowed storage and disposition project activities to proceed. Supplement analyses proved beneficial in examining whether the proposed changes were encompassed within existing NEPA documentation.

Drew Grainger, NCO for the Savannah River Operations Office, discussed how the *Interim Management of Nuclear Materials* (IMNM) EIS (DOE/EIS-0220; 1995) analyzed an array of alternatives, including some that did not necessarily seem reasonable at the time the IMNM EIS was prepared (e.g., discarding plutonium as waste – plutonium had always been considered a useful product by DOE). The range of alternatives has provided DOE substantial management flexibility to make, and even

change, several decisions in pursuit of stabilization of a wide assortment of nuclear materials without having to prepare additional EISs. (See *LLQR*, June 2003, page 4; also see 68 FR 44329, July 28, 2003, for the ninth record of decision [ROD] for the IMNM EIS).

Roger Twitchell, NCO for the Idaho Operations Office, described how the *Idaho High-Level Waste and Facilities Disposition* EIS (DOE/EIS-0287; 2002) was crafted to maximize future management flexibility. The broad proposed action sets goals, and the preferred alternative is not tied to a single narrow course of action. DOE intends to issue a series of phased or supplemental RODs as uncertainties are resolved.



*Roger Twitchell discussed Idaho's desire to issue phased decisions.*

### Phased Strategy for Modern Pit Facility

Jay Rose, NEPA Document Manager for NNSA's *Draft Supplemental Programmatic EIS on Stockpile Stewardship and Management for a Modern Pit Facility* (MPF) (DOE/EIS-236-S2; May 2003), described the genesis of the MPF EIS. Mr. Rose anticipated that several benefits would result from the NEPA strategy of preparing the

***Combining innovative NEPA planning with analysis of a comprehensively broad range of alternatives results in NEPA documents that provide a maximum degree of management flexibility – documents that will withstand future programmatic changes.***

MPF EIS as the first of two EISs for the MPF project. The first EIS would support a programmatic decision on whether to construct the facility, and if so, where. The second EIS would focus on site-specific construction and engineering decisions. The benefits would include early identification of a preferred site, stronger political support for a site, and efficient coordination of the NEPA process with engineering design of the project.

Also speaking on the MPF EIS, Carl Sykes, NEPA Office, described how analyzing a broad range of alternatives in the *Waste Isolation Pilot Plant* (WIPP)

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# Case Studies

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*Disposal Phase Supplemental EIS* (DOE/EIS-0026-S2; 1997) was helpful to preparation of the MPF EIS. The WIPP EIS’s analysis of 160-year lag storage of transuranic waste at generator sites provided analysis that is relevant to the MPF, which would generate transuranic waste past the operational time frame for WIPP.

Mr. Sykes also noted that the MPF Draft EIS analyzes an upgrade to the existing TA-55 facility at the Los Alamos National Laboratory in New Mexico, an alternative that is *barely* reasonable now but might well become reasonable should production requirements for new plutonium pits be reduced.

## Lessons Learned from Litigation

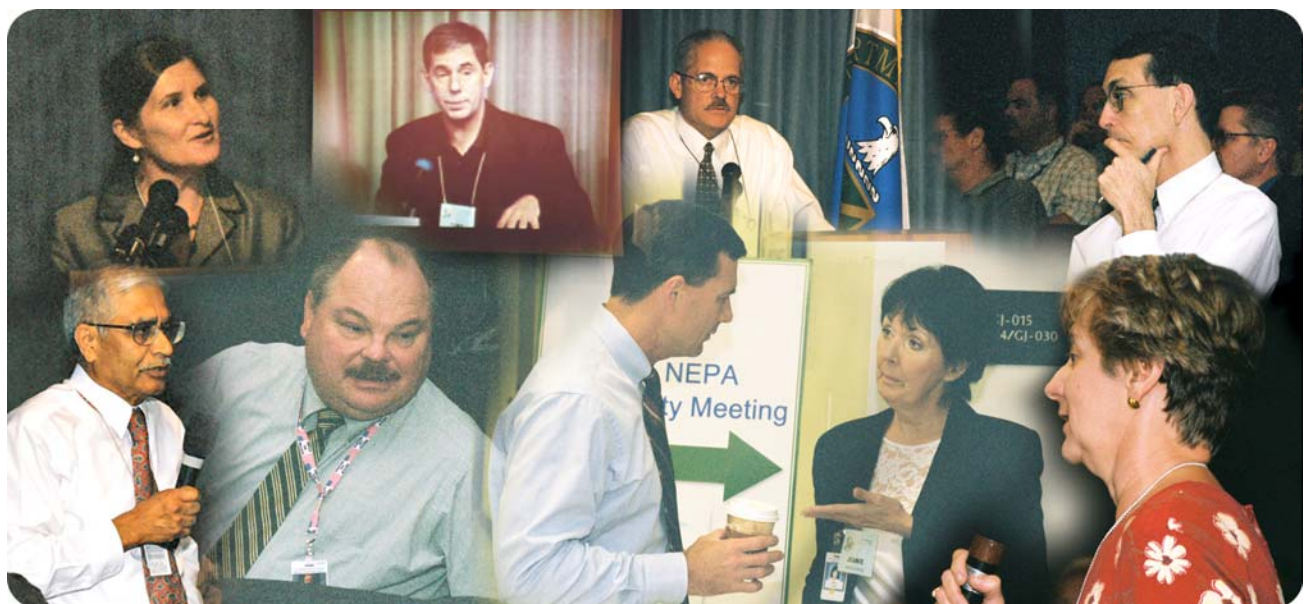
Tony Como, Deputy Director for Electric Power Regulation, Office of Fossil Energy, and Richard Ahern, Office of the Assistant General Counsel for Environment, reviewed the recent litigation over the Presidential permits issued to Baja California Power, Inc., and Sempra Energy Resources for electric transmission lines that connect new power plants in Mexico with the California power grid. The Border Power Plant Working Group (plaintiff) successfully challenged DOE’s environmental assessment, and the U.S. District Court for the Southern District of California remanded the matter to DOE for additional NEPA review, though the court declined to

enjoin operation of the transmission lines while that review is underway. (See related article, page 22.)



*Rick Ahern reported that the judge in the Baja litigation encouraged DOE to use its imagination in identifying alternatives.*

Lessons learned include: (1) thoroughly understand the environmental issues of local interest (the Department initially underestimated the importance of impacts to the Salton Sea), (2) independently verify all work performed by the applicants and their experts, (3) always support and explain a conclusion that an impact is not significant – an unsupported conclusory assertion that an impact is “insignificant” is not sufficient for judicial review, and (4) consider evaluating known environmental impacts even when they are not identified as problem impacts, e.g., in this case, review the impacts of ammonia and carbon dioxide, even though these are not regulated as criteria pollutants or as toxic air contaminants. LL



Scenes from the NEPA Community Meeting. Top row (left to right): Carol Borgstrom, Director, NEPA Office; Tony Como, Fossil Energy; Jim Daniel, NEPA Office; and Andy Lawrence, Deputy Assistant Secretary for Environment. Bottom row (left to right): Raj Sharma, Nuclear Energy, Science and Technology; Nick Stas, Western Area Power Administration; Ed LeDuc, General Counsel; Jeanie Loving, NEPA Office; and Susan Absher, Environmental Protection Agency.

## e-Government Approaches to EIS Distribution

“Distributing an EIS is a good time to apply e-government techniques to NEPA,” said Yardena Mansoor, Office of NEPA Policy and Compliance, at the July NEPA Community Meeting. While emphasizing the need to meet EIS distribution requirements under the Council on Environmental Quality (CEQ) regulations (40 CFR 1502.19, 1503.1, and 1506.6), she focused on the benefits to effective public participation and good will that can result by also meeting recipient’s EIS format needs and preferences. (Ms. Mansoor’s discussion was based in part on the related article in *LLQR*, June 2003, page 6.)

Joseph Montgomery, Director, NEPA Compliance Division, Office of Federal Activities, Environmental Protection Agency (EPA), added his observations on Web publication of EISs and other NEPA documents. He noted trends toward more use of the Web, but cautioned that agencies need to continue to provide paper copies.

Following is a summary of the meeting discussion, augmented with some additional guidance based on recent experience.

### Federal Agency Responsibility

Federal agencies have an affirmative responsibility to solicit comments – from other Federal agencies that have jurisdiction by law or special expertise and from groups and individuals that the agency knows would be interested in or potentially affected by the proposed action (40 CFR 1503.1). If an agency attempts to confirm interest in a draft EIS or format preference for a draft EIS before EIS distribution, and such stakeholders do not respond, an agency still has the responsibility to solicit their comments by providing the draft EIS if the stakeholders subsequently express an interest. However, even when an interest is not initially given, an agency should be particularly solicitous of stakeholders identified by the CEQ regulations.

For the recent distribution of the *Draft Supplemental EIS on Stockpile Stewardship and Management for a Modern Pit Facility* (DOE/EIS-236-S2; May 2003) interested and potentially affected Pueblos did not respond to a postcard inquiry. After the start of the comment period, DOE nonetheless recognized its responsibility to send the Pueblos the EIS for comment, and DOE extended the comment period for Pueblos who received the EIS late.

### Pros and Cons of Electronic Distribution

Ms. Mansoor noted that electronic-based approaches for EIS distribution offer potential advantages to the reviewer.



Compact Disks (CDs) and Web-posted documents can allow high-speed text searching and more convenient storage and portability than large paper volumes. In addition, Web posting can make an EIS available to the public faster than other forms of distribution; an interested party can have access as soon as a document is posted, without sending in a request and waiting for return delivery of the document.

As indicated in the meeting presentation on sensitive information in the NEPA process (see related article, page 12), a reviewer may face disadvantages in using an electronic format if security concerns limit the information available on CD and the Web. Also, a reviewer who initially planned to read an electronic version of the EIS but later decides to print a copy, may have difficulty printing a large document locally.

### Assume Paper Unless Stakeholder Prefers Electronic

Under the policy expressed by CEQ in its 1997 Environmental Quality Report, agencies should follow a dual course of presenting information in traditional paper format as well as on the Web (because not all Americans have access to computer technology). CEQ expected requests for paper copies to decline as users became more accustomed to acquiring information through the Internet.

The NEPA Office recently asked the Department’s potential nationwide NEPA stakeholders their format preferences (results in text box). Over half the listed Federal agencies and nongovernmental organizations prefer CD format only.

Unless knowledge of a specific stakeholder’s preference indicates that electronic format would be acceptable, it is prudent for an agency to provide an EIS in paper format. In any inquiry on format preference, it is good practice to tell what DOE will do if the stakeholder does not respond. In its inquiries by mail, DOE has typically provided return postage to encourage responses but does not have data to know whether it receives more responses when stating that an EIS will – or will not – be sent if there is no response.

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# EIS Distribution

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Ms. Mansoor emphasized that stepping away from the one-size-fits-all approach to distribution can enhance the EIS review process and result in a win-win situation, as long as an agency meets its obligation to solicit comments from all parties that it knows have jurisdiction or special expertise, or are interested or potentially affected. Satisfying these stakeholders' needs and preferences does not happen spontaneously and cannot be a last minute effort – it takes good judgment and early planning. And the planning should be repeated for each EIS as preferences may change over time.

## EPA NEPA Compliance Director Shares Observations, Plans on e-NEPA Approaches

EPA's Joseph Montgomery shared his observations on the use of technology for disseminating EISs. He observed that about a quarter of EISs are posted on the Web, although the practice is less prevalent among agencies that prepare few EISs. Mr. Montgomery advised

thoughtfulness in posting documents on Web sites, particularly the need to ensure that the "official" version of an EIS (e.g., not a draft version) is provided. He also explained that EPA still requires five paper copies when an agency files an EIS because of concern that alternative technologies may become obsolete.

Mr. Montgomery also stated that EPA plans to post online all the information it now includes in a *Federal Register* notice of availability for an EIS, to allow users to search the information by agency, state, and topic. EPA is also planning to post all its EIS ratings and comment letters online.

He closed by observing that posting a document online can provide features that are not feasible in print, such as including video clips. When that practice comes widely into use, thought must be given to specifying what is the "official" version of an EIS. For questions, contact Joseph Montgomery at [montgomery.joseph@epa.gov](mailto:montgomery.joseph@epa.gov) or 202-564-7157. 

## New DOE Stakeholder Directory Identifies Recipients' Format Preferences

The 20<sup>th</sup> edition of the *Directory of Potential Stakeholders for DOE Actions under NEPA* (dated July 2003) for the first time reports the format preferences of the listed points of contact, in addition to the subjects of interest and the number of copies requested.

- EPA's Office of Federal Activities requires 5 paper copies of an EIS for filing, but regional offices involved in reviewing an EIS each have their own preference for paper copies or CDs and the number of each requested.
- The Department of the Interior requests one paper copy and a URL for an EIS posted online, or one paper copy and CDs in place of the usual complement of paper copies when only paper is offered – ranging from 6 to 18 depending on the location and whether the document is a draft or final EIS.

Category	# of Contacts	CD	Paper	CD & Paper	Other*
<b>Federal Agencies</b>	<b>104</b>	<b>55</b>	<b>32</b>	<b>13</b>	<b>4</b>
<b>States</b>	<b>73</b>	<b>18</b>	<b>25</b>	<b>21</b>	<b>9</b>
<b>Nongovernmental Organizations</b>	<b>170</b>	<b>92</b>	<b>52</b>	<b>25</b>	<b>1</b>
<b>Total</b>	<b>347</b>	<b>165</b>	<b>109</b>	<b>59</b>	<b>14</b>

\* Not applicable or no preference specified

The *Directory*, now published annually in July, has been distributed to the DOE NEPA Community and is available on the DOE NEPA Web site at [tis.eh.doe.gov/nepa](http://tis.eh.doe.gov/nepa) under Guidance, then Public Participation. DOE NEPA Document Managers should use the most recent *Directory* to supplement lists of local stakeholders compiled for specific programs, projects, or facilities. For questions or copies, contact Katherine Nakata, [katherine.nakata@eh.doe.gov](mailto:katherine.nakata@eh.doe.gov) or 202-586-0801.

## Procedures Evolving for Sensitive Information

Panelists Eric Cohen, NEPA Office; Ray Holmer, Office of Safeguards and Security Policy; and Lauren O'Donnell, Federal Energy Regulatory Commission (FERC), Office of Energy Projects, addressed recent developments to better accommodate homeland security concerns in NEPA activities. (See *LLQR*, September 2002, page 7.)

Mr. Cohen reviewed existing DOE policy direction and current practices for addressing non-classified, security-sensitive information in NEPA documents. He noted that NEPA Document Managers screen out non-essential information and segregate sensitive but essential information. He described the general approaches that DOE Program Offices are considering in developing internal directives, including providing only EIS summaries on the Web, not entire documents; requiring people who request documents to sign nondisclosure agreements; and developing guidance for evaluating the sensitivity of information.

Mr. Holmer predicted that new DOE directives on Official Use Only (OUO) information will be helpful in deciding how to handle sensitive unclassified information under NEPA. DOE must continue to follow Freedom of Information Act rules (10 CFR Part 1004) and the Department's internal classification guidance (DOE Manual 475.1-1A, "Identifying Classified Information;" February 26, 2001, and current classification guides). Mr. Holmer recommended the internal classification guidance as "the best place we have for one-stop shopping on what security information we consider sensitive."

### OUO Guidance Issued in April 2003:

- DOE O 471.3, Identifying and Protecting Official Use Only Information
- DOE G 471.3-1, Guide to Identifying Official Use Only Information
- DOE M 471.3-1, Manual for Identifying and Protecting OUO Information

Ms. O'Donnell described how FERC is categorizing and handling information in order to meet its NEPA responsibilities without jeopardizing security. FERC Order 630, "Final Rule on Critical Energy Infrastructure Information," (18 CFR Parts 375 and 388; 68 FR 9857, March 3, 2003) identifies "critical energy infrastructure information" (CEII), such as engineering specifications for natural gas pipelines, as a type of

information that is restricted from public release. FERC will provide CEII to tribal, state, and local officials or members of the public only if they show a need for the information and sign a nondisclosure agreement. (The preamble to the final rule indicates that state agencies will be presumed to have a need for information related to facilities in their state.) FERC makes sure that its NEPA documents do not contain CEII. (Such information is part of the administrative record for a proposal.)



*Panelists discussed how to manage sensitive information in NEPA documents.*

Internet." NIP includes location maps (e.g., 7.5-minute topographical maps) of pipelines and other energy projects, but not their technical details. FERC may include NIP in NEPA documents and will provide it in paper form upon request. However, the agency removes NIP from the electronic versions of NEPA documents provided on public Web sites. In its place there is an insert advising readers to request this material from the Public Reference Room. Ms. O'Donnell said, "This seems to have had minimal impact on the public – they are getting the information they need."

Mr. Cohen recalled that after September 11, 2001, DOE made 65 EISs and 335 EAs inaccessible to the public via the DOE NEPA Web site. None of these documents has since been reviewed for security purposes, and public access has not been restored. Because most of these documents "probably would be innocent" and might need to be referenced in new EISs and EAs, Mr. Cohen urged each office to review its documents to determine whether electronic access by the public can be restored. (A list of these documents, sorted by program, was included in the electronic meeting notebook.)

Mr. Holmer said that his office has resources to help with security reviews, noting that Program Offices need to request this assistance. Once documents have been cleared for public Web-posting, Denise Freeman, NEPA Webmaster, can arrange to place them in the public area of the DOE NEPA Web site. **LL**

Ms. O'Donnell explained that FERC created a second category, non-Internet public (NIP) information, as a "compromise" after consulting with other agencies that "were pulling all their maps and drawings off the

## DOE NEPA Community Meeting

(continued from page 3)

**Shortcuts are fine if they are within the limits of the law and if they make the process more effective and more efficient. Shortcuts are not fine if we start doing an analysis that is inadequate or that leaves issues off the table. – Horst Greczmiel**

Web sites and other tools. This comes with an important caveat, though.

“Technology can never replace the typical ways in which we reach out to our publics. Not everybody has the capacity or ability to make use of the Internet or other tools in the technology arena,”

Mr. Greczmiel explained. “We can’t say we’ll do away with all hard copies and public meetings and

communications that are face-to-face. That will have to remain part of the mix.”

Links between adaptive management and NEPA were considered by the Task Force, including the potential

for ongoing monitoring to benefit the NEPA process. One area of possible benefit is improved understanding of the types of actions that qualify as categorical exclusions.

“CEQ has not done a good job of putting out sufficient guidance to the agencies to tell them how to establish the basis for new categorical exclusions,” Mr. Greczmiel said. One difficulty is that while an environmental assessment may conclude there will be no significant environmental impact, it is a predictive analysis. “Were there no significant impacts?” Mr. Greczmiel asked. “That’s the tough question.” Future work could involve consideration of monitoring and other ways of “plugging that gap.”

Recommendations on these and other topics will be reviewed by Mr. Connaughton. CEQ would only make changes in NEPA requirements or guidance after appropriate review, using normal decisionmaking processes, according to Mr. Greczmiel.

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### Preview of CEQ NEPA Task Force Report

Horst Greczmiel previewed topics that were discussed by the CEQ NEPA Task Force for inclusion in its final report.

**Technology, Information Management, and Information Security:** The Task Force considered whether CEQ might pull together a working group to look more closely at how security-sensitive information can be managed more consistently between agencies and how to improve the handling of information that is sensitive for its archeological, cultural, or other value. The Task Force identified a need for more interaction between the NEPA Community and those responsible for information technology so that technology can enhance methods of communicating with the public about NEPA matters.

**Federal and Inter-governmental Collaboration:** The Task Force considered whether CEQ might sponsor training about how states and other government entities, and the public at large, can “interact successfully” in the NEPA process.

**Programmatic Analysis and Tiering:** The Task Force identified the need for CEQ guidance regarding preparation of a programmatic EIS for site-wide, regional, or watershed analysis, not only for a program. The Task Force also found the need to better clarify the relationship between programmatic and project-specific NEPA analyses.

**Adaptive Management/Monitoring and Evaluation Plans:** The Task Force discussed whether linking monitoring systems to the NEPA process could result in an “almost living type of NEPA analysis” in which new information is regularly evaluated.

**Categorical Exclusions:** The Task Force considered the need for additional guidance on establishing categorical exclusions (CXs) and whether monitoring results could help provide the basis for new CXs.

**Other topics:** The Task Force discussed ways to better integrate NEPA with other requirements so that compliance is done “as concurrently as possible rather than consecutively.” Other issues addressed by the Task Force include how to align the desire to better involve outside parties in refining alternatives with NEPA’s mandate to take a hard look at all reasonable alternatives, the need for guidance on preparing social and economic analyses, the role for dispute resolution during or after the NEPA process, and the possibility of an annual forum discussing NEPA legal issues.

# DOE NEPA Community Meeting

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## Taking Us There

“So, are we there yet?” asked Carol Borgstrom, Director, NEPA Office, as she brought the meeting to a close. “I suppose some of us are and some of us aren’t, sometimes we are and sometimes we aren’t. I think we probably do a better job on what are the more difficult EISs.”

“Get your senior management involved,” Ms. Borgstrom said, describing the path to a successful EIS. “Get a strong team involved in preparing it, lots of coordination, lots of planning and communication among all the involved offices.”

Ms. Borgstrom concluded by pointing to the success of the *Draft Environmental Impact Statement for the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, New Mexico* (DOE/EIS-0350D; May 2003). (See related article, page 15)

Why did she judge it successful? It was of “high quality” when it came in, Ms. Borgstrom said. “We weren’t really faced with filling in major deficiencies or gaps in analyses. We could concentrate on the policy-level issues, which is our headquarters’ function.” **LL**

## A NEPA “Green” Meeting

This year’s NEPA Community Meeting incorporated several aspects to reduce environmental impacts. The videocast reduced travel. The often heavy meeting binder of past years was replaced by an “electronic meeting notebook” maintained on the DOE NEPA Web site and distributed on CD-ROM. This change significantly reduced paper use while simplifying distribution.

Participants responded favorably to these changes. Over 80 percent of people participating from remote sites reported that they would do so again and would recommend use of videocasts in the future. Over half the remote participants reported that the technology and location did not interfere with their participation. There were several suggestions for improvements, though, and some participants did miss the face-to-face aspect of past meetings. The NEPA Office will consider all the feedback received in planning future meetings.

# DOE-wide NEPA Contracts Update

The following tasks have been awarded under the DOE-wide NEPA contracts. For questions, including information on earlier tasks awarded under DOE-wide NEPA contracts, contact David Gallegos at [dgallegos@doeal.gov](mailto:dgallegos@doeal.gov) or 505-845-5849. Information and resources for potential users of these contracts are available on the DOE NEPA Web site at [tis.eh.doe.gov/nepa](http://tis.eh.doe.gov/nepa) under DOE-wide NEPA Contracting.

Task Description	DOE Contact	Date Awarded	Contract Team
Evaluation of Decommissioning EIS Schedule	Dan Sullivan <a href="mailto:daniel.w.sullivan@ww.doe.gov">daniel.w.sullivan@ww.doe.gov</a> 716-942-4016	3/5/2003	Battelle
Clean Coal Power Initiative Great River Energy EA	Roy Spears <a href="mailto:rspear@netl.doe.gov">rspear@netl.doe.gov</a> 304-285-5460	5/13/2003	Jason
Clean Coal Power Initiative Colorado Springs Utilities Project EIS	Nelson Rekos <a href="mailto:nrekos@netl.doe.gov">nrekos@netl.doe.gov</a> 304-285-4066	6/9/2003	Potomac-Hudson
Environmental Reviews and Documentation for Phase 5 Fiber Optic Cable Installations	Theodore Anderson <a href="mailto:tanderso@wapa.gov">tanderso@wapa.gov</a> 406-247-7385	6/12/2003	Tetra Tech
Environmental Reviews and Documentation for Fiber Optic Cable Installations and Other Maintenance Work	Rodney Jones <a href="mailto:rjones@wapa.gov">rjones@wapa.gov</a> 970-461-7371	6/26/2003	AGEISS
NEPA Document Process Support	Susan Lacy <a href="mailto:slacy@doeal.gov">slacy@doeal.gov</a> 505-845-5542	7/16/2003	Tetra Tech

# CMRR Draft EIS – A Lessons Learned Success Story

By: Elizabeth Withers, NEPA Document Manager and NEPA Compliance Officer, Los Alamos Site Office

A foundation of good NEPA documentation, a focused proposed action, and effective teamwork contributed to publication of a draft EIS that demonstrates some of the best in NEPA implementation. The *Draft Environmental Impact Statement for the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, New Mexico* (CMRR DEIS, DOE/EIS-0350D; May 2003) received positive response at all levels of the DOE review process and, after publication, the

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*“What first struck me was the readability of the CMRR Draft EIS – it made sense, was easy to read, and didn’t have a lot of mistakes.”*

*– Jim Daniel, Office of NEPA Policy and Compliance*

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Environmental Protection Agency’s highest rating (“LO,” Lack of Objections, meaning that EPA did not identify any potential environmental impacts requiring substantive changes to the proposal).

The 18-month EIS schedule has so far been smooth and steady, with just one small “bump in the road” when a scheduling conflict delayed briefing National Nuclear Security Administration (NNSA) senior management. Needless to say, the lesson learned from that little bump in the process is to coordinate project and EIS schedules a little better. As NEPA Document Manager, I can see that several factors have come together to make the process work so well.

## Tiering Works, A Simple Project Helps

The *Site-Wide Environmental Impact Statement for Continued Operation of the Los Alamos National Laboratory* (DOE/EIS-0238; 1999) included information about the existing Chemistry and Metallurgy Research (CMR) Building. The Site-wide EIS drew upon the more than 60 years of CMR operating experience regarding the capabilities it supports and the functional processes conducted within it. Tiering from this Site-wide EIS was a huge help in preparation of the CMRR DEIS, which addresses a proposed replacement of the CMR Building.

The relative simplicity of the proposed action also helped make the CMRR DEIS a success. Many of DOE’s programs and projects are inherently complicated, and the NEPA analyses that are prepared for them are necessarily complicated, too! This one was, by comparison, a simple project.



Conceptual drawing of the CMRR Facility

## It’s the Team that Matters Most

We have a good team of people from NNSA and other parts of DOE, and from contractors, who collected the technical information needed for the analyses, prepared the document, reviewed the Draft EIS, and supported the process.

The CMRR EIS is being prepared by Science Applications International Corporation (SAIC), one of the five firms that have been awarded DOE-wide contracts for NEPA support services. SAIC located their EIS project manager in Albuquerque to facilitate the process hands-on. While EISs can be written very adequately by people physically located anywhere in the world these days, having a central pivot person located in the same time zone as the project people and NEPA Document Manager is something I see as a real necessity.

The contractor brought considerable knowledge and experience with the preparation of NEPA documents to the process – and this shows in the quality of the Draft EIS. Even the very first cut “rough draft” we received from SAIC was more like cotton than burlap, and it just got better until the concurrence draft reached silky smoothness.

Also vital to the EIS preparation process were the ecological resources team and the CMRR project people at Los Alamos National Laboratory and NNSA’s Los Alamos Site Office. They really pulled together to provide information about the site, about natural and cultural resources in the Los Alamos area and at the Laboratory, and about the CMR Building and the proposed CMRR Project.

Teamwork from beginning to end made the Draft EIS successful, and we are continuing that strong teamwork now to complete the Final EIS this year.

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*The 46-day comment period on the CMRR Draft EIS closed June 30, 2003. About 200 comments were received from fewer than 20 individual commentors – not counting the two different campaign letters signed by multiple people. The Final EIS is scheduled to be issued this November. For more information, contact Elizabeth Withers at ewithers@doeal.gov or 505-667-8690. LL*

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*Everyone from the site to headquarters worked to make the review and concurrence process go smoothly.*

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# NEPA and Negotiation Combine to Prevent Blackouts while Protecting a Valuable Watershed

By: Gene Lynard, *NEPA Document Manager, Bonneville Power Administration*

The intent and spirit of NEPA again helped Bonneville Power Administration (BPA), DOE's power marketing organization in the Pacific Northwest, win support for a controversial 500-kilovolt transmission line through the City of Seattle's Cedar River Municipal Watershed. The preferred alternative, outlined in the *Kangley-Echo Lake Transmission Line Project Environmental Impact Statement* (DOE/EIS-0317-S1, June 2003), will help BPA keep the lights on in the Northwest.

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*"While we have disagreed over the best location of this proposed transmission line, the city understands the need to provide for power transmission reliability. We are pleased that we have been able to negotiate a proposed settlement with BPA that protects this critical source of our water supply and enhances our restoration activities."*  
— Mayor Greg Nickels, City of Seattle

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Getting support for a new transmission line is never easy, but when your proposal threatens the drinking water of a major city and goes through pristine habitat for Federally-listed fish and wildlife, you had better be ready to deal. And BPA, through the NEPA process and lengthy negotiations with stakeholders, has successfully crafted a way for the environment to come out on top.

BPA identified a critical need in 1999, i.e., a weakness in the high-voltage transmission system in the Seattle area that could lead to brownouts, or even blackouts, during extremely cold periods when demand for power is highest, and as early as the winter of 2002-2003. Without some kind of fix, the area could go dark when people need power for electric heat. Planners started brainstorming solutions, and the NEPA staff began identifying the issues and concerns.

## Potential Impacts to a Valuable Watershed

Seattle officials, tribal governments, national and local environmental groups, and some nearby residents opposed plans for the proposed transmission line when the Draft EIS was circulated for public review in the

summer of 2001. They thought any transmission line through the Cedar River Watershed, which supplies water to about 1.3 million people in the Puget Sound area, would harm water quality and fish and wildlife habitat. Just before the project was proposed, the City of Seattle had, through its own contentious process, finalized a Habitat Conservation Plan (HCP) under the Endangered Species Act for the northern spotted owl and marbled murrelet and for future returns of chinook salmon. The HCP allowed no commercial logging in the Watershed. BPA's new transmission line would require cutting about 90 acres inside the Watershed.



*Melting snow and rain are gathered and stored in reservoirs such as this one created by the Masonry Dam. Other images of the Watershed are available in the virtual tour at Seattle Public Utility's Web site ([www.cityofseattle.net/util/cedarwatershed](http://www.cityofseattle.net/util/cedarwatershed)).*

The approximately 90,000-acre Watershed provides water of such purity that it need not be filtered. If construction or other activities contaminated the water, it could leave Seattle responsible for a \$100 million filtration system for its water supply in a time of tight municipal budgets.

## Comments Lead to Supplement With Additional Alternatives

All action alternatives analyzed in the Draft EIS crossed the Watershed because going around the Watershed meant demolishing homes. Though of concern to local residents, the HCP stakeholders made it clear that they wanted alternatives outside the Watershed analyzed along with a completely different solution – a non-transmission alternative, such as conservation. And they wanted mitigation. They wanted all this in a Supplemental Draft EIS before any decision was made.

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# Protecting a Valuable Watershed

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BPA reopened scoping and prepared a Supplemental Draft EIS that evaluated four routes that went around the Watershed, new information about the preferred alternative, and a non-transmission alternative. The non-transmission alternative included incentives to reduce peak demand, energy efficiency, and alternate generation sources, which provided some benefits, but only delayed the need for additional transmission capacity for a few years.

## Negotiations and a Commitment to Mitigation Result in Broadly Accepted Project

BPA continued to meet with environmental groups and tribes to better understand their concerns throughout the

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*"We applaud BPA's efforts to mitigate the impacts from the project and will work with BPA to ensure the intent of these commitments is translated into real forest and water protection."  
— Charlie Raines, Director, Sierra Club's Cascade Checkerboard Project*

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process. BPA also met regularly with Seattle's representatives to hammer out an agreement that would meet the City's concerns in exchange for BPA receiving an easement across the Watershed. BPA offered a creative mitigation strategy: land purchases and a promise to not seek additional land across the Watershed again.

BPA purchased lands adjacent to the Watershed that would be transferred

to the City of Seattle (almost 600 acres) or sold with conservation easements attached (about 500 acres). This includes some 350 acres above the Raging River Basin, abutting the Watershed. These purchases compensated for the loss of about 90 acres of timber in the Watershed and drew praise from local environmental groups.

BPA also identified several new mitigation measures and state-of-the-art design methods that would effectively minimize potential impacts of constructing the transmission line, such as flying preassembled tower sections and fallen timber in and out of the Watershed, and using non-toxic vegetable oil in all hydraulic equipment within the Watershed.

Finally, in its agreement with the City of Seattle, BPA committed to (1) measures protecting the City against any threat to its water supply during project construction and for two years thereafter, (2) funds to the City to improve security and finance restoration within the Watershed, and (3) costs for timber removal.

## A NEPA Success Story

Commentors spared no one's feelings when they responded to the Draft EIS, and NEPA staff used those comments to prepare a successful Supplemental Draft EIS. Because BPA was responsive to stakeholders' comments

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*How did BPA win the needed support? Through lengthy negotiation and an attempt to try and meet everyone's needs.*

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and concerns, there were far fewer comments on the Supplemental Draft EIS, and BPA could prepare an abbreviated Final EIS, saving both time and expense. BPA issued the Final EIS on June 20, 2003, less than six months after issuing the Supplemental Draft EIS.

Construction began the day following the record of decision (68 FR 44532; July 29, 2003) and is scheduled to be complete in December 2003.

The extent of stakeholders' concern was far greater than realized when project planning began. The NEPA process made clear to the decisionmakers which critical resources were of most interest. BPA's extra effort to address stakeholders' concerns by developing compensatory mitigation measures through the NEPA process and negotiations resulted in a win-win-win outcome for BPA, the environmental community, and the users of electricity in the Puget Sound area – the ultimate beneficiaries of the project.

*For more information, contact Gene Lynard at [gplynard@bpa.gov](mailto:gplynard@bpa.gov) or 503-230-3790. LL*

## NEPA Trivia

(from the NEPA Community Meeting)

2. What was the subject of the first DOE EIS?

3. How many pages long was the first DOE EA?

- (a) 1-25
- (b) 26-50
- (c) 51-100
- (d) more than 100 pages

Answers on page 24.

# NEPA Helps to Protect Sagebrush Steppe Ecosystem

By: Roger Twitchel, *NEPA Compliance Officer, DOE Idaho Operations Office*

NEPA can help DOE not only to make decisions about new projects but also examine ongoing activities and plan ways to reduce adverse environmental impacts. DOE's Idaho Operations Office successfully used the NEPA process to evaluate trade-offs among alternatives and determine the best way to preserve the natural sagebrush steppe ecosystem at the Idaho National Engineering and Environmental Laboratory (INEEL). INEEL contains the largest remnant of undeveloped, ungrazed sagebrush steppe remaining in the Intermountain West. Current rangeland management practice in combination with an altered wildfire process threatens to irreversibly convert what remains of the sagebrush steppe ecosystem into a landscape dominated by non-native cheatgrass.

## Wildfire in the Sagebrush Steppe

Fire is a natural component of the sagebrush steppe ecosystem, typically occurring on a 40- to 70-year cycle. The natural ecosystem consists of shrubs – most notably sagebrush, an abundance of perennial grasses, and annual grasses and broadleaf herbaceous plants. When this native vegetation burns, grasses and herbaceous plants survive (perennials re-sprout from underground stems and roots, annual grasses from seed) but the sagebrush is killed. Sagebrush will recolonize only as wind-dispersed seed from unburned areas. Once established, it will take about five years to mature and will compete with the other native plants until a natural balance is reached.

The introduction of non-native annual plants, particularly cheatgrass, alters the natural fire and recovery cycle. After a fire, cheatgrass seeds quickly germinate, and the plants successfully compete for moisture and nutrients with native seedlings and surviving plants. It grows rapidly during cool, wet springs, goes to seed, and then becomes parched during the extended dry periods in late spring and early summer. Cheatgrass can quickly form a nearly continuous carpet of fuel that is extremely prone to burn. The frequency of fire increases, cheatgrass continues to increase, and sagebrush eventually disappears from the plant community.



*Cheatgrass is thought to have been introduced into the Intermountain West in the 1880's in impure seed.*

## EA Addresses Fire Management

The Idaho Office decided to prepare an EA to address concerns that the traditional fire management strategy at INEEL – which focused solely on extinguishing fires – was adversely impacting natural resources by destroying habitat for species dependent on sagebrush, affecting cultural resources, and creating massive dust storms after a fire. Of particular concern were impacts on the eastern subspecies of the greater sage grouse, a bird that inhabits the INEEL site. The Institute for Wildlife Protection petitioned the U.S. Fish and Wildlife Service (FWS) in July 2002 to list the eastern subspecies as endangered. (To date there have been seven petitions to the FWS to list the sage grouse or one of its subspecies.)

The *INEEL Wildland Fire Management Environmental Assessment* (DOE/EA-1372, April 2003) was not associated with any project, and there was no budget set aside to prepare it. The Idaho Office's management and operating contractor made the EA a reality by juggling other activities to ensure its completion.

The EA evaluated four alternatives for managing wildfires at INEEL, each of which included options for pre-fire, fire suppression, and post-fire activities:

- *Maximum Fire Protection Alternative* – implement the full range of pre-fire, fire suppression, and post-fire activities. It would focus on creating firebreaks and aggressively fighting all fires.
- *Balanced Fire Protection Approach* – use minimum impact suppression tactics (e.g., allowing fires to burn to a natural barrier, placing containment lines to minimize impacts on significant environmental resources, minimizing soil disturbance) in order to suppress wildfires with the least impact on the land. It would minimize fuel loading and fire potential by developing a program for long-term management of native vegetation.
- *Protect Infrastructure and Personnel Safety* – include only those activities necessary to protect primary INEEL facilities. It would include pre-fire activities needed to provide safe spaces for firefighters within the site.
- *No Action Alternative* – continue traditional pre-fire, fire suppression, and post-fire activities, including fighting fires aggressively. This alternative differs from the Maximum Fire Protection Approach in that it prescribes significantly fewer pre-suppression activities, such as the creation of defensible space and fuel management zones, and no post-fire activities except for dust control.

*continued on next page*

# Sagebrush Steppe Ecosystem

*continued from previous page*

## Interagency Consultations Protect Natural Resources, Enhance Safety and Planning

DOE could not have reasonably assessed these alternatives without examining the general condition of sagebrush steppe in Idaho and the wildfire strategies of other area agencies. Thus, the Idaho Office contacted other organizations with interests in and knowledge of the natural resources on the site: Idaho Department of Fish and Game, Shoshone-Bannock Tribes, FWS, and the Bureau of Land Management (BLM).

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*At the end of the interagency consultation process, everyone was more aware of the long-term impacts and the concerns of competing interests.*

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BLM, in particular, was interested because it was beginning an EIS and Plan Amendment for *Fire, Fuels, and Related Vegetation Management Direction* on wildfire management in the Upper Snake River District in southeast Idaho.

The organizations shared information about existing ecosystem conditions and determined information needed to aid in successful restoration of burned areas. In addition to useful suggestions for the EA, the consultation process has

enhanced safety for all fire crews deployed at INEEL because DOE and BLM have coordinated their fire suppression and control tactics.

The EA provided a qualitative assessment and comparison of the potential impact of each alternative on air, water, wildlife, wildlife habitat, and cultural resources. Based on this analysis, the Idaho Office determined that the Balanced Fire Protection Approach will best protect natural resources. Implementing this alternative will, for example, conserve habitat critical to sagebrush-dependent species, such as the greater sage grouse. The other interested agencies agreed that this alternative was the best strategy for managing wildfires at INEEL. DOE determined that the selected alternative would not have, and in fact, likely would prevent, a significant impact on the human environment.

The NEPA process helped DOE's Idaho Office plan wildfire management actions to minimize their potentially significant environmental impacts on the site's natural resources. This was an innovative, cooperative approach to using NEPA to improve environmental protection, safety, and site-wide planning.


*For more information, contact Roger Twitchell at [twitchrl@inel.gov](mailto:twitchrl@inel.gov) or 208-526-0776.* 

## FERC Integrates NEPA and Hydroelectric Licensing Processes

The Federal Energy Regulatory Commission (FERC) revised its regulations for hydroelectric licensing on July 23, 2003, to create a new Integrated Licensing Process. Under the new process, a potential license applicant's pre-filing consultation and FERC's scoping pursuant to NEPA would be conducted concurrently, rather than sequentially. The pre-filing process allows a potential applicant to gather information on stakeholder concerns, alternatives, and potential impacts that is useful both to its application and FERC's NEPA process. The new regulations promote greater coordination between FERC and Federal and state agencies with authority to apply conditions to licenses and provide for increased public participation during the pre-filing period.

An additional feature of the new regulations is the development of a study plan, which is designed to provide information needed to evaluate project effects on

the environment. The study plan is to be developed in conjunction with the NEPA scoping process to better understand which alternatives should and should not be considered. FERC anticipates that involving Federal and state agencies and the public early, especially in the development of the study plan, will improve the efficiency and predictability of the licensing process.

The new regulations become effective on October 23, 2003, and will provide the integrated licensing approach as an option during a two-year transition. After July 2005, however, the new procedures would be the default approach used by FERC. Additional information is available on the Web at [www.ferc.gov](http://www.ferc.gov) under Hydroelectric Licensing Rulemaking or by contacting Tim Welch at [timothy.welch@ferc.gov](mailto:timothy.welch@ferc.gov) or 202-502-8760. (Also see *LLQR*, September 2001, page 12, regarding FERC's streamlining of its NEPA reviews of natural gas pipeline proposals.) 

# Transitions

## Oak Ridge: David Allen Takes Emergency Management Position; Acting NCOs Fill In

*David Allen, until recently the NEPA Compliance Officer for the Oak Ridge Operations Office, writes:*

I have been selected as the Director of the Assessment and Emergency Management Division, which has overall emergency management responsibility for the Oak Ridge Reservation (around 35,000 acres) and supports these efforts at Paducah and Portsmouth. In addition, this organization supports numerous assessment and quality assurance functions that range from day-to-day audits to major facility Operational Readiness Reviews and Integrated Safety Management verifications.

I will greatly miss my numerous friends and colleagues across the Department and several other agencies with which I have had the pleasure and privilege to work. These are a super group of people.



*David Allen was an active participant in DOE NEPA meetings.*

I assumed management responsibility for NEPA at Oak Ridge in June of 1991. After more than 12 years, the NEPA program across the Department and Oak Ridge has seen significant change; however, several aspects have not changed and should never change. First, a focus on thorough, quality NEPA reviews that properly assess the impacts of our actions; second, an ever increasing involvement of the public; and last, the philosophy that teamwork within the Department and with

stakeholders will ultimately help minimize impacts to our environment.

Until my position is permanently filled, members of the Oak Ridge environmental staff will serve as Acting NCO. David Page, Environmental Engineer, Environmental Protection Group (EPG), will be Acting NCO through September 16, 2003 (pagedg@oro.doe.gov or 865-576-1357), followed by Gary Hartman, Environmental Scientist, EPG, from September 17 through October 16, 2003 (hartmangs@oro.doe.gov or 865-576-0273).

Remember that my e-mail address (allendr@oro.doe.gov) and phone number (865-576-0411) have not changed. I will always be available to assist, counsel, laugh, or cry about any particular NEPA issue folks have.

As always,

David R. Allen

## Fossil Energy NCO: Mark Matarrese

Mark Matarrese now serves as the NEPA Compliance Officer for the Office of Fossil Energy (FE), replacing Don Silawski, who served since 2001. Mr. Matarrese works in FE's Office of Environment, Security, Safety and Health. He also is the acting Headquarters Security Officer, Emergency Management Coordinator, Pollution Prevention and Waste Minimization Coordinator, and lead for Critical Infrastructure Protection activities.

His DOE work experience includes service with the Naval Petroleum and Oil Shale Reserves, Office of Defense Programs, and the Office of Environment, Safety and Health. Other previous Federal government experience includes serving at the Defense Technical Information Center and the U.S. Marine Corps/Naval Air Rework Facility-Cherry Point, N.C.

Mr. Matarrese has managed analytical chemistry and microbiological laboratory operations and has conducted analyses on a wide variety of environmental and industrial hygiene samples in both government and private industry. He can be reached at mark.matarrese@hq.doe.gov or 202-586-0491.

## How Do Federal Agencies Implement NEPA Section 101?

The National Environmental Conflict Resolution (ECR) Advisory Committee requested information on August 18, 2003, from Federal NEPA Liaisons about their implementation of NEPA Section 101. Responses will help the committee in examining the relationship between Section 101 and ECR. (See *LLQR*, June 2003, page 15.)

The Office of NEPA Policy and Compliance will coordinate DOE's response to the committee's questions: what aspects, if any, of Section 101 are covered in the Department's strategic plan; whether NEPA training or reviews of NEPA implementation incorporate Section 101 policy goals; whether Section 101 goals are addressed in alternatives analysis in agency EISs; and whether agency policies, mission statements, or regulations have a direct connection to Section 101 goals. Suggestions for inclusion in DOE's response may be sent to Yardena Mansoor (yardena.mansoor@eh.doe.gov) by September 30.

The U.S. Institute for Environmental Conflict Resolution, chartered by Congress in 1998, is intended in part to assist the Federal Government in implementing Section 101 of NEPA. For further information on the institute or its advisory committee, see [www.ecr.gov](http://www.ecr.gov) or contact Melanie Emerson at memerson@ecr.gov or 520-670-5299.

# Strategic Petroleum Reserve Wins Award At 28<sup>th</sup> NAEP Conference

The National Association of Environmental Professionals (NAEP) held its 28<sup>th</sup> annual conference on June 22-25, 2003, in San Antonio, Texas. DOE's NEPA Community once again played a prominent role providing presentations and actively participating in conference sessions, all of which supported the overarching theme: *No Borders: One Globe, One Environment*.

## SPR Awarded for EMS that Integrates NEPA

The DOE Strategic Petroleum Reserve (SPR) and its Management and Operating Contractor, DynMcDermott Petroleum Operations Company, were jointly presented the 2003 National Environmental Excellence Award for Environmental Management. The award was for SPR's Environmental Management System (EMS), which is premised on full integration with its NEPA process to provide a dynamic mechanism for early identification of environmental aspects (an EMS term-of-art, which has a broader meaning than environmental impacts in the NEPA context) and impacts. The result is a combined approach to aspect identification and impact management that provides the opportunity for environmental improvement throughout the project lifecycle. For more information contact Katherine Batiste, NEPA Compliance Officer, Strategic Petroleum Reserve Project Office, at [katherine.batiste@spr.doe.gov](mailto:katherine.batiste@spr.doe.gov) or 504-734-4400.

## NEPA Essential Component Of Presidential Award Recipient

The Presidio of San Francisco, one of the oldest military posts in the nation, received the 2003 NAEP President's National Environmental Excellence Award for its Presidio Trust Management Plan, which emphasizes preservation and enhancement of the Presidio's cultural, natural, scenic, and recreational resources for public use: replacing pavement with green space, improving and enlarging the park's trail system, restoring stream corridors and natural habitats, and reusing historic structures for public, residential, and office use.


The Plan is driven by Congress' direction that the Trust manage the 1,168-acre site in perpetuity for the public benefit and that the Presidio be financially self-sufficient by 2013. The trust arrangement and the financial conditions are unique in the National Park system.

An EIS was prepared for the Plan, and NEPA compliance will be integral to plans for implementing future actions. The 2002 Plan, EIS, and record of decision are available on the Web at [www.presidio.gov/TrustManagement](http://www.presidio.gov/TrustManagement) under Environmental and Planning Documents. For more information, contact John Pelka, NEPA Compliance Manager, Presidio Trust, at [jpelka@presidiotrust.gov](mailto:jpelka@presidiotrust.gov). (Also see *LLQR*, June 2003, page 7.)

## NEPA Symposium Draws On DOE NEPA Community

About a dozen members of the Federal and contractor DOE NEPA Community made presentations at NEPA-related sessions during the conference. This year's NEPA symposium was chaired by Dr. John Irving, Idaho National Engineering and Environmental Laboratory. Among the presenters was Carolyn Osborne, NEPA Office, who discussed DOE's process for categorical exclusions and environmental assessments. Other DOE-related topics included site-wide EISs, wildland fires and NEPA planning, and the use of geographic information systems in the NEPA process.

## NAEP Going to Portland in 2004; Abstracts Due September 30

NAEP's next conference, themed *Building Bridges in a Changing World*, will be held in Portland, Oregon, April 25-28, 2004. More information is available on the Association's Web site at [www.naep.org](http://www.naep.org). Abstracts for the 2004 conference are due by September 30, 2003 (an extension from the August 31 date NAEP initially announced). 

## NEPA Trivia

(from the NEPA Community Meeting)

4. How many CXs does DOE have?      5. When were the DOE NEPA regulations written?

Answers on page 24.



## Litigation Updates

### Court Orders Agencies to Review NEPA For Two U.S.-Mexico Transmission Lines

DOE and the Bureau of Land Management (BLM) must prepare a supplemental EA or an EIS on two transborder electric power transmission lines, under a July 8, 2003, decision by the U.S. District Court for the Southern District of California. The court previously ruled on May 2, 2003, that the EA (*Presidential Permit Applications for Baja California Power, Inc., and Sempra Energy Resources* [DOE/EA-1391; 2001]) and FONSI prepared by the agencies are inadequate. (See *LLQR*, June 2003, page 20.)

The decision came in response to a lawsuit filed by the Border Power Plant Working Group. (See *LLQR* June 2002, page 13.) At issue are permits for transmission lines that carry electricity from new power plants in Mexico into the United States. DOE issued permits for transmission facilities at the U.S.-Mexico border. BLM issued permits for the lines to cross land it manages.

In its July ruling, the court deferred plaintiff's request that the permits and FONSI be set aside, an action that would have halted operation of the transmission lines until adequate NEPA analysis is completed. The court, however, retained jurisdiction to ensure that DOE and BLM fulfill their obligations under NEPA. DOE and BLM must demonstrate to the court by May 15, 2004, why the court should not set aside the permits and FONSI on July 1, 2004.


The court balanced the impacts of continued operation of the power lines while further NEPA review is conducted (a period estimated not to exceed two years) against ceasing operation. The court determined that the plaintiff had "not demonstrated a likelihood of substantial and irreparable environmental harm" during the period of additional NEPA review. Meanwhile, the companies that received the permits showed the court evidence of "considerable economic harm" if operation of the transmission lines were suspended. The court also observed that there is a net benefit to the public from enhancing the reliability of the power supply by allowing operation of the transmission lines to continue.

Further underlying its July 2003 decision is the court's analysis of two issues. In the first of these, the court had examined the administrative record for the EA and

determined in May that the EA did not explain why public "comments do not suffice to constitute a public controversy" about potential impacts of the proposed action. In selecting a remedy for this inadequacy, however, the court considered both the administrative record for the EA and additional evidence about potential impacts presented to it by experts on both sides. This led the court to be "even more convinced...that a dispute exists concerning the significance of impacts" but did not lead the court to conclude that the dispute was substantial.

While the court had earlier ruled that the EA should have responded better to public comments, it found in July that, for purposes of deciding upon a remedy, the comment letters "provided little more than conclusions as to the significance of those [potential] impacts" of the proposed action, not compelling evidence or analysis. Consequently, the court did not feel obliged to order DOE and BLM to prepare an EIS but instead gave the agencies the discretion to determine how best to fulfill their obligations under NEPA.

The second issue involved the determination of significance. For both impacts to water quality in the Salton Sea and impacts from air pollution, the court found that the plaintiff had failed to show substantial and irreparable harm. In the case of air impacts, the court made this determination despite also having found it likely that emissions of particulates from the power plants in Mexico would contribute to one violation of applicable air quality standards at each of two air monitoring stations within the U.S. during the anticipated period for completing an adequate NEPA review. Also, the court accepted scientific evidence that the increase in particulate matter as a result of power plant operations (presented in the EA) could result in adverse health impacts. However, because the increase would be at a level that the Environmental Protection Agency has determined to be "insignificant," the court declined to "find that the same increase is substantial for purposes of issuing injunctive relief."

[Case No. 02-CV-513-IEG (POR)] 

# Litigation Updates (continued from previous page)

## Court Finds Part of DOE Order 435.1 Invalid


The U.S. District Court for the District of Idaho ruled on July 3, 2003, that a key provision of DOE Order 435.1, Radioactive Waste Management, is invalid. The ruling applies to that portion of the Order that allows waste that is incidental to reprocessing to be managed as low-level radioactive waste (LLW). Such classification is viewed by DOE as important to speeding the treatment and reducing associated disposal costs of liquid wastes generated by DOE's prior reprocessing of spent nuclear fuel. Waste incidental to reprocessing that remains in tanks could be disposed of in place, as LLW for example, rather than being disposed of in a repository as high-level waste.

The Natural Resources Defense Council, along with other groups, challenged the provision as inconsistent with the Nuclear Waste Policy Act (NWPA). (See *LLQR*, September 2002, page 19.) The court agreed that part of DOE Order 435.1 was not consistent with NWPA.

The court declined plaintiff's request that it enjoin DOE from implementing specific plans including closing waste tanks by filling them with grout. The court found "no

indication" that DOE would "continue with any plan inconsistent with NWPA." Plaintiffs may bring the issue back before the court should the need arise, however.


In a letter to Congress on August 1, 2003, the Secretary of Energy submitted draft legislation to Congress to clarify that high-level waste does not include radioactive materials from reprocessing that DOE, in consultation with the Nuclear Regulatory Commission, determines do not require disposal in a geologic repository designed for spent nuclear fuel and high-level waste in order to protect public health and safety. The Secretary also filed a Notice of Appeal on August 27, 2003. DOE is reviewing implications of the court's decision, including whether the decision impacts existing NEPA documentation. The decision and other documents filed in this case are available online at [www.id.uscourts.gov](http://www.id.uscourts.gov) under Case Files, District, nonrestricted cases, case number 01-413.

[Case No: 01-0413-S-BLW] 

## NEPA Lawsuit Challenges Biological Research Laboratories

Two nonprofit groups filed a lawsuit in U.S. District Court for the Northern District of California on August 26, 2003, alleging that DOE violated NEPA in its plans to construct and operate a Biosafety Level 3 (BSL-3) facility at the Lawrence Livermore National Laboratory (LLNL) in California and another at the Los Alamos National Laboratory (LANL) in New Mexico. The lawsuit also claims that the National Nuclear Security Administration should prepare a programmatic EIS on its Chemical and Biological National Security Program (CBNP), which includes the two BSL-3 facilities.

Tri-Valley CAREs and Nuclear Watch of New Mexico state that EAs prepared for the two BSL-3 facilities – *Environmental Assessment for the Proposed Construction and Operations of a Biosafety Level 3*

*Facility at Los Alamos National Laboratory, Los Alamos, New Mexico* (DOE/EA-1364; 2002) and *Environmental Assessment for the Proposed Construction and Operation of a Biosafety Level 3 Facility at Lawrence Livermore National Laboratory, Livermore, California* (DOE/EA-1442; 2002) – contain inadequate analysis to support a finding of no significant impact. The groups also contend that DOE has violated the Freedom of Information Act (FOIA) in failing to provide requested documents and the Administrative Procedure Act for failing to comply with NEPA and FOIA. The groups asked the court to issue an injunction against construction of the BSL-3 facility at LLNL and operation of the nearly-complete BSL-3 facility at LANL until DOE has complied with NEPA for the individual facilities and the CBNP. 

# Training Opportunities

NEPA-related courses are listed in the Lessons Learned Quarterly Report for information only, without endorsement.

- **NEPA Overview/Cultural and Natural Resources Management**  
Reno, NV: September 9-11  
Fee: \$795  
  
**How to Manage the NEPA Process and Write Effective NEPA Documents**  
*4-Day Course*  
San Diego, CA: September 9-12  
Memphis, TN: October 7-10  
Las Vegas, NV: October 21-24  
Washington, DC: November 18-21  
Fee: \$995  
  
*3-Day Course*  
Logan, UT: October 6-8  
Fee: \$795  
  
**Public Response/Content Analysis Management**  
Phoenix, AZ: September 23-24  
Fee: \$595  
  
**Team Building for NEPA Specialists**  
Logan, UT: October 9-10  
Fee: \$595  
  
**Cumulative Impact Analysis and Documentation**  
Logan, UT: October 30-31  
Fee: \$595  
  
**Reviewing NEPA Documents**  
*2-Day or 3-Day Course*  
Boise, ID: November 4-6  
Fee: \$595/\$795  
  
*The Shipley Group*  
888-270-2157 or 801-298-7800  
shipleys@shipleysgroup.com  
[www.shipleysgroup.com](http://www.shipleysgroup.com)
- **Preparing and Documenting Environmental Impact Analyses**  
Durham, NC: September 15-18  
Fee: \$1090  
  
**Implementation of NEPA on Federal Lands and Facilities**  
Durham, NC: November 3-7  
Fee: \$1090  
  
*Nicholas School of the Environment and Earth Sciences*  
Levine Science Research Center  
Duke University  
919-613-8082  
sea3@duke.edu  
[www.env.duke.edu/cee/NEPA.html](http://www.env.duke.edu/cee/NEPA.html)
- **NEPA: Policies, Procedures, and Practices**  
Los Angeles, CA: September 17-18  
Fee: \$425  
  
**Information Technology Tools for Environmental Assessments and Land Use Planning**  
Alhambra, CA: November 7  
Fee: \$245/\$270 (by/after October 24)  
  
**Successful CEQA Compliance**  
Los Angeles, CA: December 4-5  
Fee: \$425  
  
*UCLA Extension*  
310-825-9971  
818-784-7006  
[www.uclaextension.edu/publicpolicy](http://www.uclaextension.edu/publicpolicy)

## NEPA Trivia Answers

1. Between 19 and 20 pounds
2. DOE/EIS-001 (1977) was for the Strategic Petroleum Reserve, Texas Salt Dome
3. DOE/EA-001 (1977), Battery Energy Storage Test Facility (New Jersey), was 23 pages long, including 2 maps
4. Subpart D of the DOE NEPA Implementing Regulations has 103 typical classes of action listed: 15 in Appendix A and 88 in Appendix B
5. Proposed in 1990, issued in 1992, and revised in 1996.



# EAs and EISs Completed April 1 to June 30, 2003

## EAs

### **Bonneville Power Administration**

DOE/EA-1367 (4/23/03)

*White Sturgeon Mitigation and Restoration in the Columbia and Snake Rivers, Washington*

Cost: \$3,000

Time: 30 months (EA was put on hold)

### **Chicago Operations Office**

DOE/EA-1455 (6/27/03)

*Enhanced Operations of the Advanced Photon Source, Illinois*

Cost: \$200,000

Time: 12 months

### **Grand Junction Operations Office**

DOE/EA-1466 (4/23/03)

*Ground Water Compliance at the Naturita, Colorado, UMTRA Project Site, Colorado*

Cost: \$40,000

Time: 3 months

### **Idaho Operations Office**

DOE/EA-1372 (4/25/03)

*Wildland Fire Management at INEEL, Idaho*

Cost: \$ 55,000

Time: 27 months

### **Oakland Operations Office**

DOE/EA-1345 (4/2/03)

*Restoration of the Energy Technology Engineering Center Site, California*

Cost: \$230,000

Time: 35 months

### **Richland Operations Office**

DOE/EA-1462 (6/16/03)

*Tank Closure Demonstration Project, Washington*

Cost: \$91,000

Time: 7 months

### **Western Area Power Administration**

DOE/EA-1465 (4/15/03)

*Edgeley Wind Energy Project, North Dakota*

[Note: The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.]

Time: 4 months

## EISs

### **Bonneville Power Administration**

DOE/EIS-0312 (5/9/03)

(EPA Rating: LO)

*Fish and Wildlife Implementation Plan, Oregon and Washington*

Cost: \$1,000,000

Time: 42 months

DOE/EIS-0317-S1 (6/20/03)

(EPA Rating: EC-2)

*Kangley-Echo Lake Transmission Line Project, King County, Washington*

Cost: \$720,000

Time: 13 months

DOE/EIS-0345 (6/20/03)

(EPA Rating: EC-2)

*Plymouth Generating Facility, Benton County, Washington*

[Note: The cost for this EIS was paid by the applicant; therefore, cost information does not apply to DOE.]

Time: 17 months

### ENVIRONMENTAL PROTECTION AGENCY (EPA) RATING DEFINITIONS

#### Environmental Impact of the Action

LO – Lack of Objections

EC – Environmental Concerns

EO – Environmental Objections

EU – Environmentally Unsatisfactory

#### Adequacy of the EIS

Category 1 – Adequate

Category 2 – Insufficient Information

Category 3 – Inadequate

(For a full explanation of these definitions, see the EPA Web site at: [www.epa.gov/compliance/nepa/comments/ratings.html](http://www.epa.gov/compliance/nepa/comments/ratings.html).)

# NEPA Document Cost and Time Facts

## EA Costs and Completion Times

- For this quarter, the median cost of 6 EAs completed was \$72,830; the average was \$103,110.
- Cumulatively, for the 12 months that ended June 30, 2003, the median cost for the preparation of 33 EAs for which cost data were applicable was \$78,150; the average was \$98,380.
- For this quarter, the median completion time of 7 EAs was 11 months; the average was 17 months.
- Cumulatively, for the 12 months that ended March 31, 2003, the median completion time for 34 EAs was 11 months; the average was 13 months.

## EIS Costs and Completion Times

- The costs for 2 EISs completed for which cost data were applicable for this quarter were \$720,000 and \$1,000,000.
- Cumulatively, for the 12 months that ended June 30, 2003, the median cost for the preparation of 9 EISs for which cost data were applicable was \$1,000,000; the average was \$7,275,560.\*
- For this quarter, the median completion time of 3 EISs was 17 months; the average was 24 months.
- Cumulatively, for the 12 months that ended June 30, 2003, the median completion time for 11 EISs was 25 months; the average was 32 months.\*

\* *Note: This value should be interpreted with caution because a single document (the Yucca Mountain EIS) significantly affected the average.*

## Recent EIS-Related Milestones (June 1 to August 31, 2003)

### Notices of Intent

#### **National Energy Technology Laboratory**

DOE/EIS-0361  
*Western Greenbrier Co-Production Demonstration Project, Rainelle, West Virginia*  
June 2003 (68 FR 33111, 6/3/03)

DOE/EIS-0362  
*Colorado Springs Utilities Next-Generation CFB Coal Generating Unit, Fountain, Colorado*  
August 2003 (68 FR 48893, 8/15/03)

### Draft EISs

#### **Fossil Energy**

DOE/EIS-0336  
*Tucson Electric Power Company (TEP) Sahuarita-Nogales Transmission Line Draft Environmental Impact Statement*  
August 2003 (68 FR 51569, 8/27/03)

#### **National Nuclear Security Administration**

DOE/EIS-0236-S2  
*Draft Supplemental Programmatic Environmental Impact Statement on Stockpile Stewardship and Management for a Modern Pit Facility*  
June 2003 (68 FR 33934, 6/6/03)

### Records of Decision

#### **Bonneville Power Administration**

DOE/EIS-0317-S1  
*Kangely-Echo Transmission Line Project King County, Washington*  
July 2003 (68 FR 44532, 7/29/03)

DOE/EIS-0183

*Business Plan Final Environmental Impact Statement, Columbia County, Oregon*  
August 2003 (68 FR 45798, 8/4/03)

#### **Savannah River Site**

DOE/EIS-0220  
*Amended Record of Decision, Interim Management of Nuclear Materials; Savannah River Site Waste Management, South Carolina*  
July 2003 (68 FR 44329, 7/28/03)

*continued on next page*

# Recent EIS-Related Milestones

*continued from previous page*

## Supplement Analyses

### Bonneville Power Administration

#### Wildlife Mitigation Program

(DOE/EIS-0246)

DOE/EIS-0246/SA-32

*Zumwalt Prairie Conservation Easement,  
Wallowa County, Oregon*

(Decision: No further NEPA review required)

May 2003\*

DOE/EIS-0246/SA-33

*Gooderich Bayou Culvert Replacement,  
Flathead County, Montana*

(Decision: No further NEPA review required)

May 2003\*

#### Watershed Management Program

(DOE/EIS-0265)

DOE/EIS-0265/SA-103

*Install Fish Screens to Protect ESA Listed Steelhead  
and Bull Trout in the Walla Walla Basin – Phase II  
Minor Diversion Screen Installations,  
Walla Walla, Washington*

(Decision: No further NEPA review required)

June 2003

DOE/EIS-0265/SA-104

*Water Entity (Deschutes Resources Conservancy  
2003) Funding for Three Water Rights Acquisition,  
Princeville, Crook County, Oregon*

(Decision: No further NEPA review required)

June 2003

DOE/EIS-0265/SA-105

*Water Entity (Washington Water Trust 2003)  
Purchase/Lease Water Acquisition Rights  
for Three Projects, Twisp, Okanogan County,  
Washington*

(Decision: No further NEPA review required)

June 2003

DOE/EIS-0265/SA-106

*Water Entity (Trout Unlimited Montana Water Project  
2003) Purchase/Negotiate Water Rights for Three  
Projects, Missoula, Montana*

(Decision: No further NEPA review required)

June 2003

DOE/EIS-0265/SA-107

*Hancock Springs Passage and Habitat Restoration,  
Okanogan County, Washington*

(Decision: No further NEPA review required)

July 2003

DOE/EIS-0265/SA-108

*Klickitat Watershed Enhancement Project (Snyder  
Canyon Creek Mill Fish Passage Project),  
Washington*

(Decision: No further NEPA review required)

July 2003

DOE/EIS-0265/SA-109

*East Fork Holistic Restoration (Salmon River East  
Fork 12 and Herd Creek 1), Custer County, Idaho*

(Decision: No further NEPA review required)

July 2003

DOE/EIS-0265/SA-110

*Pahsimeroi Holistic Restoration (Gydesen/Hayes  
Riparian Enhancement and Irrigation Improvement  
Project), Custer County, Idaho*

(Decision: No further NEPA review required)

July 2003

DOE/EIS-0265/SA-111

*Young Creek Stream Restoration,  
Lincoln County, Montana*

(Decision: No further NEPA review required)

August 2003

DOE/EIS-0265/SA-112

*Upper Salmon Holistic Restoration (Zeigler Riparian  
Fence), Custer County, Idaho*

(Decision: No further NEPA review required)

August 2003

DOE/EIS-0265/SA-113

*Pahsimeroi Holistic Restoration (Moen Riparian  
Fence), Custer County, Idaho*

(Decision: No further NEPA review required)

August 2003

DOE/EIS-0265/SA-115

*Upper Salmon Holistic Restoration (Dowton Riparian  
Fence), Custer County, Idaho*

(Decision: No further NEPA review required)

August 2003

\*Not previously reported in LLQR

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DOE/EIS-0265/SA-116

*Fabricate and Install New Huntsville Mill Fish Screen, Columbia County, Washington*

(Decision: No further NEPA review required)

August 2003

## **Transmission System Vegetation Management Program Final Environmental Impact Statement**

(DOE/EIS-0285)

DOE/EIS-0285/SA-91

*VM Around Wood Pole Structures in the Idaho Falls Region*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-128

*VM for the Olympia-Satsop #3 230 kV Transmission Line Corridor*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-129

*VM for the Ashe-Marion #2 500 kV Transmission Line from Structure 150/2 through 157/7*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-130

*VM for the Keeler-Tillamook 115 kV Transmission Line from Structure 1/7 through 58/2 and Along Adjacent Portions of the Keeler-Forest Grove #2 115 kV Transmission Line*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-132

*VM for Portion of the Big Eddy-Ostrander #1 500 kV Transmission Line Located from Tower Structure 31/2 to 39/3*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-133

*VM for the Hanford-Ostrander Corridor from Structure 126/1 through Structure 146/4*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-134

*VM for the Brandon-Rogue-Gold Beach Transmission Line Corridor*

(Decision: No further NEPA review required)

March 2003\*

DOE/EIS-0285/SA-135

*VM for the Lower Monumental-McNary Transmission Line Corridor from Towers 13/1 to 14/1 and 18/1 to 19/5*

(Decision: No further NEPA review required)

April 2003\*

DOE/EIS-0285/SA-136

*Portions of the Paul-Olympia, Paul Satsop, VM for the Oregon City (Chemawa #1 and #2 115 kV Transmission Lines from Oregon City Substation to Chemawa Substation)*

(Decision: No further NEPA review required)

April 2003\*

DOE/EIS-0285/SA-137

*Vegetation Management for the Chemawa-Salem #1 115 kV and #2 230 kV Transmission Lines from Chemawa Substation to Salem Substation*

(Decision: No further NEPA review required)

April 2003\*

DOE/EIS-0285/SA-138

*VM for Portion of the Raver-Echo Lake #1 500 kV Transmission Line Located from Tower Structure 4/1 to 13/1*

(Decision: No further NEPA review required)

April 2003\*

DOE/EIS-0285/SA-139

*VM for the Little Goose (Lower Granite #1 and #2 Transmission Line Corridor from Towers 4/3 to 8/1)*

(Decision: No further NEPA review required)

April 2003\*

DOE/EIS-0285/SA-140

*VM for the Salem Albany #1 115 kV Transmission Line from Salem Substation to Albany Substation*

(Decision: No further NEPA review required)

April 2003\*

\*Not previously reported in LLQR

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# Recent EIS-Related Milestones

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DOE/EIS-0285/SA-141

*VM for the Salem Albany #2 115 kV Transmission Line from Salem Substation to Albany Substation*  
(Decision: No further NEPA review required)  
April 2003\*

DOE/EIS-0285/SA-142

*VM for the Keeler-Oregon City #2 115 kV Transmission Line from Keeler*  
(Decision: No further NEPA review required)  
April 2003\*

DOE/EIS-0285/SA-143

*VM for Portion of the Custer-Intalco #1 230 kV Transmission Line Located from Tower Structure 1/1 to 7/4*  
(Decision: No further NEPA review required)  
April 2003\*

DOE/EIS-0285/SA-144

*VM for Portion of the Custer-Intalco #2 230 kV Transmission Line Located from Tower Structure 1/1 to 7/5*  
(Decision: No further NEPA review required)  
April 2003\*

DOE/EIS-0285/SA-147

*VM for the Big Eddy-Chenoweth No. 1 & 2 Substation to Substation, Big Eddy-Midway Substation to 2/3 & Chenoweth-Goldendale (Substation to 2/3)*  
(Decision: No further NEPA review required)  
April 2003\*

DOE/EIS-0285/SA-146

*VM for Portion of the Custer-Ingledow No. 1 & 2 500 kV Transmission Line Located from Tower Structure 1/4 to 9/6*  
(Decision: No further NEPA review required)  
May 2003\*

DOE/EIS-0285/SA-148

*Joint Project with US Forest Service for Vegetation Control for the McNary-Santiam #2 230 kV Transmission Line that Enhances Wildlife Habitat Under Powerlines*  
(Decision: No further NEPA review required)  
May 2003\*

DOE/EIS-0285/SA-149

*VM for the Captain Jack-Malin #1 500 kV Transmission Line from Structure 2/4 to Malin Substation*  
(Decision: No further NEPA review required)  
May 2003\*

DOE/EIS-0285/SA-150

*VM for the East Ellensburg Tap, 1/6 to 3/19 Transmission Line ROW*  
(Decision: No further NEPA review required)  
May 2003\*

DOE/EIS-0285/SA-151

*Removal of Dangerous Trees Along the Big Eddy-Ostrander-1 Transmission Line Corridor*  
(Decision: No further NEPA review required)  
May 2003\*

## **Ground Coulee-Bell 500 kV Transmission Line Project FEIS (DOE/EIS-0344)**

DOE-EIS-0344/SA-1

*Design Change for Four 500-kW Lattice Steel Towers from Double Circuit to Single Circuit Towers 82/5, 83/1, 83/2, and 83/3, Mead, Washington*  
(Decision: No further NEPA review required)  
July 2003 **LL**

\*Not previously reported in LLQR

# What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1B requires the Office of NEPA Policy and Compliance to solicit comments on lessons learned in the process of completing NEPA documents and distribute quarterly reports. This Quarterly Report covers documents completed between April 1 and June 30, 2003.

*The material presented here reflects the personal views of individual questionnaire respondents, which (appropriately) may be inconsistent. Unless indicated otherwise, views reported herein should not be interpreted as recommendations from the Office of Environment, Safety and Health.*

## Scoping

### What Worked

- *Eliminating overlap.* Coordinating EIS scoping with other public participation processes conducted in the same region reduced needless overlap and facilitated the ability to share the information used for the projects.

### What Didn't Work

- *Establishing alternatives.* Determination of reasonable alternatives for this EIS was particularly hard due to sensitive issues associated with the proposed action and disagreement among stakeholders.
- *Lack of understanding.* It was not well communicated to those who were unfamiliar with the EA process what the scope was and how it should have been used by the team.
- *Shifting factors.* As the group was trying to determine the EA scope and alternatives, the criteria used to determine reasonable alternatives kept changing.

## Data Collection/Analysis

### What Worked

- *Contractor preparedness.* When it came time to write the EIS, technical study reports (already prepared by the contractor) made the document easier to write.
- *Sharing information.* Information was shared between agencies and bureaus and was available for use in the document summaries.
- *Existing databases.* Field sources were augmented by previously collected data.

### What Didn't Work

- *Uncertainty in future analysis.* Assessing activities that will occur in the future was made more difficult because the scale of the activity was unknown.

## Schedule

### Factors that Facilitated Timely Completion of Documents

- *Cooperative planning.* Coordination among staff and supervisors helped keep the EIS on schedule.
- *Attention to detail.* Special consideration was paid to the facts early on in the process; this saved time later during preparation.
- *Accessible information.* Much of the data used was available on a CD at reference libraries; this led to relatively easy and timely EIS revisions.
- *Coordination among stakeholders.* Planning with other agencies who had an interest in the project facilitated timely completion of the EA.
- *Flexible contractor staff.* An accommodating contractor staff was able to respond quickly to evolving issues as they arose.

### Factors that Inhibited Timely Completion of Documents

- *Lack of agreement within organization.* There was not consensus between the staff and management on how the project should have been completed.
- *Late discussion with interest groups.* Delayed consultations with interest groups postponed timely completion of the EA.
- *Chain of command.* The document writers reported to the contractor's project manager rather than to the DOE NEPA Document Manager.

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# What Worked and Didn't Work

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## Teamwork

### Factors that Facilitated Effective Teamwork

- *Commitment.* DOE team members were dedicated to getting the job done, even if no direct funding was available.
- *One-stop shop.* One agency provided all of the information and data for the EA.
- *Sharing data.* A series of fact sheets was prepared on the project and was used among the EIS team during preparation.
- *Involving contractors.* Contractors were included as part of the core team until the completion of the EIS analysis; this kept them in the loop during important discussions.
- *Initial organization.* Coordinating closely with the applicant during the early stages of project development facilitated effective DOE teamwork.
- *Management support.* The DOE Program Office and the DOE Site Office project managers strongly supported the DOE NEPA Document Manager and the review team and were committed to protection of sensitive resources.

### Factors that Inhibited Effective Teamwork

- *Miscommunication among the group.* Because the EA writers reported to the contractor's project manager, it was difficult for the DOE EA reviewers to get candid information on the proposed action and potential impacts of the proposed action.
- *Lack of agreement.* Project contractor resisted making design changes needed to protect sensitive resources.

## Process

### Successful Aspects of the Public Participation Process

- *Keeping the public informed.* Several successful meetings were held between DOE and the community.
- *Distribution of information.* By using mailing lists of interested parties, information about the EIS was disseminated quickly and efficiently.

- *Early document reviews.* A draft of the EA was sent to relevant bureaus and agencies, which improved coordination for the final document.
- *Consideration of public comments.* The analysis of implementation options within broad policy alternatives allowed outside parties to better understand how their perspectives are considered.
- *Incorporating feedback.* Local agencies provided valuable input and expertise to ensure that the analysis was adequate and the environment would be protected.

### Unsuccessful Aspects of the Public Participation Process

- *Time constraints.* There was a lack of time in the project schedule to run an effective public involvement program as well as analyze and prepare technical study reports for the EIS.
- *Incomplete coordination.* The public participation process did not address concerns of all stakeholders in a timely manner. Some concerns were not addressed until very late in the process.

## Usefulness

### Agency Planning and Decisionmaking: What Worked

- *Being prepared.* Planning of the EIS was started early, so that when it was time to prepare the document, there was some background already established.
- *Broad analyses.* Examining many alternatives allowed for a variety of options, rather than offering too narrow a range of alternatives in the draft document.

### What Didn't Work

- *Disagreements.* Concerns of various stakeholders on regional policy inhibited the process from continuing smoothly.
- *Unfunded mandates.* Contractors needed to find money when and where they could so that the EA could be completed.

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## What Worked and Didn't Work

*continued from previous page*

### Enhancement/Protection of the Environment

- The EA process will allow for maintaining a healthy ecosystem at the project site.
- An agreement for post-construction monitoring of the project can be used as a model for future siting of similar projects.
- Through relationship analysis methodology, policy makers were able to use the information to stimulate discussions on fish and wildlife issues. Furthermore, it was used to balance their decisions on impacts to the human environment.
- The NEPA process provided opportunities for environmental resource protection by identifying measures that were needed to reduce potentially adverse environmental impacts.
- The EA process resulted in a more environmentally protective design for the current project, and it also identified deficiencies in carrying out prior NEPA commitments. These deficiencies are being evaluated and addressed.

### Other Issues


#### Guidance Needs Identified

- One respondent noted that guidance is not available on how to prepare NEPA documents for unpredictable events, such as floods and wildland fires.
- One respondent noted that internal scoping guidance is needed on issues that specifically involve tribes in environmental reviews.

### Effectiveness of the NEPA Process

For the purposes of this section, “effective” means that the NEPA process was rated 3, 4, or 5 on a scale from 0 to 5, with 0 meaning “not effective at all” and 5 meaning “highly effective” with respect to its influence on decisionmaking.

For the past quarter, in which 4 questionnaire responses were received for EAs and 5 responses were received for EISs, 7 out of 9 respondents rated the NEPA process as “effective.”

- A respondent who rated the process as “5” stated that the NEPA process contributed greatly to the decisionmaking process for the project. “[It] made clear to the decisionmakers which critical resources were of most concern to those potentially impacted. As a result, the project now contains extraordinary mitigation to protect these resources. Finally, the NEPA process clarified the need for the project and expanded the kinds of alternatives that were considered.”
- A respondent who rated the process as “5” stated that the NEPA review resulted in significant environmental protection that may not otherwise have occurred.
- A respondent who rated the process as “5” stated that the NEPA process evolved into a well informed, well thought-out management plan.
- A respondent who rated the process as “3” stated that NEPA is used to support agency decisions, but it is not yet being used to plan decisions because management does not use it for that purpose.
- A respondent who rated the process as “0” stated that the NEPA process was just another permit or hoop to jump through, because construction specifications were developed and issued before the completion of the NEPA process.
- A respondent who rated the process as “0” stated that neither the requirement to prepare the EA nor human-created schedules always comply with mother nature. 



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