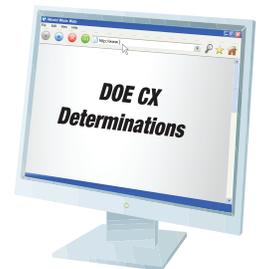


LESSONS LEARNED

December 1, 2009; Issue No. 61

Fourth Quarter FY 2009

DOE Begins Online Posting of Categorical Exclusion Determinations



The Department of Energy (DOE) is now posting most of its categorical exclusion (CX) determinations on the web under a policy that went into effect November 2, 2009. In establishing the policy, Deputy Secretary Daniel B. Poneman referred to President Obama's commitment to "creating an unprecedented level of openness in Government," including by posting information online. "Such openness is especially important when the information relates to the Department's compliance with the National Environmental Policy Act (NEPA)," Deputy Secretary Poneman wrote in his October 2, 2009, memorandum on NEPA Process Transparency and Openness.

One of the primary purposes of [NEPA] is to inform the public about the environmental implications of government decisions.

*— Deputy Secretary Daniel B. Poneman
October 2, 2009, Memorandum*

A CX is a category of actions that an agency has determined do not individually or cumulatively have a significant effect on the human environment and, thus, do not require preparation of an environmental assessment (EA) or environmental impact statement (EIS). A CX determination is the decision by a DOE NEPA Compliance Officer (NCO) that a proposed action fits within one or more CXs, other requirements for a CX in DOE NEPA regulations (10 CFR Part 1021) are met, and the action is categorically excluded from further NEPA review.

The new policy is to document and post all determinations based on CXs listed in Appendix B to Subpart D of DOE's NEPA regulations. Determinations based on CXs listed in

Appendix A, which are primarily administrative actions, are not required to be documented or posted. The Office of the General Counsel proposed this new policy as part of its initiative to improve transparency in the DOE NEPA process (*LLQR*, September 2009, page 1).

The DOE NEPA Website provides links to web pages where CX determinations are being posted by Program and Field Offices (www.gc.energy.gov/nepa under DOE NEPA Documents, then Categorical Exclusion Determinations). As of November 30, more than 180 CX determinations have been posted online. The Website also includes a link to Deputy Secretary Poneman's policy memorandum, a *Federal Register* notice announcing the policy to the public (October 9, 2009; 74 FR 52129), and related documents.

Implementation Approaches Vary

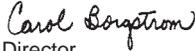
The Office of NEPA Policy and Compliance, in consultation with the Office of the Assistant General Counsel for Environment and with input from NCOs, distributed implementation guidance to facilitate compliance with the new policy in mid-October. The guidance clarifies that the policy applies only to CX determinations made after November 2, 2009, but notes that NCOs may choose to post earlier CX determinations, such as those for Recovery Act projects in light of the extraordinary interest. (More than 155 CX determinations for Recovery Act projects have been posted, including 44 issued before November 2.) The policy requires CX determinations to be posted within 2 weeks, unless additional time is needed to protect classified, confidential, or otherwise exempt information. The guidance explains that posted CX determinations should remain online as long as the action may be of interest.

(continued on page 8)

Inside *LESSONS LEARNED*

Welcome to the 61st quarterly report on lessons learned in the NEPA process. In this issue, we highlight many of the ways that the NEPA process furthers transparency in government decisionmaking. Thank you for your continuing support of the Lessons Learned program. As always, we welcome your suggestions for improvement.

| | |
|--|----|
| CEQ Reports Timely NEPA Reviews for Recovery Act | 3 |
| Comprehensive Draft EIS for Hanford Issued | 4 |
| Y-12 Public Hearings Show Different Perspectives | 7 |
| Revised Background Radiation Exposure Estimates | 7 |
| Electronic CX Determination Form | 8 |
| New Executive Order on Greenhouse Gases, Sustainability..... | 9 |
| BPA Environmental Leadership Award | 9 |
| My Exploration of NEPAAssist | 10 |
| NEPA Webinar for Loan Guarantee Applicants | 11 |
| MOU: Expediting Transmission Siting on Federal Lands | 12 |
| Litigation Updates..... | 13 |
| Contracting Updates..... | 16 |
| Training Opportunities | 17 |
| EAs and EISs Completed This Quarter | 19 |
| Cost and Time Facts..... | 20 |
| Recent EIS Milestones | 20 |
| Questionnaire Results | 22 |


Carol Sorption
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 February 1, 2010. Contact Yardena Mansoor at yardena.mansoor@hq.doe.gov or 202-586-9326.

Quarterly Questionnaires Due February 1, 2010

Lessons Learned Questionnaires for NEPA documents completed during the first quarter of fiscal year 2010 (October 1 through December 31, 2009) should be submitted by February 1, 2010, but preferably as soon as possible after document completion. The Questionnaire is available on the DOE NEPA Website at www.gc.energy.gov/nepa under Lessons Learned Quarterly Reports. For Questionnaire issues, contact Vivian Bowie at vivian.bowie@hq.doe.gov or 202-586-1771.

LLQR Online

Current and past issues of the *Lessons Learned Quarterly Report* are available on the DOE NEPA Website at www.gc.energy.gov/nepa. Also on the website is a cumulative index.

Printed on recycled paper



This icon indicates that *LLQR* online (www.gc.energy.gov/nepa under Lessons Learned Quarterly Reports) provides a link to a referenced web page whose URL is too long to be useful when printed.



Mark Your Calendar: Upcoming Conference

NAEP To Celebrate NEPA at 40

The National Association of Environmental Professionals (NAEP) 2010 conference will be held April 27–30 in Atlanta, with a focus on *Tracking Changes: 40 Years of Implementing NEPA and Improving the Environment*. Additional sessions will explore diverse topics, including energy and renewable energy issues, environmental policy, public involvement, and sustainability. Registration and additional information will soon be available at www.naep.org.



As a result of a reorganization within the Office of the General Counsel, announced October 26, 2009, the Office of NEPA Policy and Compliance now reports to the Deputy General Counsel for Environment and Nuclear Programs. The new organization code is GC-54 (formerly GC-20).

Correction: *LLQR*, September 2009: The citation in the last paragraph of page 3 should be corrected to “Section 1609(c).”



CEQ Reports Timely NEPA Reviews for Recovery Act

Federal agencies “have risen to the challenge of expeditious NEPA compliance” for projects and activities (projects) that receive funding through the American Recovery and Reinvestment Act (Recovery Act), wrote Nancy Sutley, Chair of the Council on Environmental Quality (CEQ), in a memorandum to Federal agency heads on November 20, 2009. “Your efforts in meeting this challenge are commendable and demonstrate the concerted commitment of countless individuals responsible for preparing the NEPA actions as well as for transmitting the quarterly reports,” she continued. Chair Sutley was referring to information in CEQ’s third report to Congress on the NEPA status of projects receiving Recovery Act funds.

The report to Congress summarizes the NEPA status of more than 145,000 projects. Through September 30, Federal agencies completed about 134,000 categorical exclusion (CX) determinations, 4,600 EAs, and 670 EISs¹ related to Recovery Act projects, and concluded that NEPA is not applicable to about 3,500 other projects. These projects together involve obligations of more than \$170 billion in Recovery Act funds. In addition, CEQ reported that about 7,600 NEPA reviews are pending, including approximately 5,200 CX determinations, 2,300 EAs, and 90 EISs.

... timely reporting has provided transparency and accountability.

*– Nancy Sutley, Chair
Council on Environmental Quality*

EERE Leads DOE Progress

DOE completed more than 1,800 NEPA reviews for Recovery Act projects during the quarter ending September 30, including making CX determinations for all or part of 1,560 applications in the Energy Efficiency and Conservation Block Grant Program managed by the Office of Energy Efficiency and Renewable Energy (EERE). This success was due to the efforts of NEPA Compliance Officers from several DOE sites that assisted EERE with application reviews ([LLQR, September 2009, page 1](#)).

The Office of Science also made significant progress during the quarter, both by making new CX determinations and by concluding that existing CX determinations and EAs adequately address the work proposed for funding under the Recovery Act. DOE’s report to CEQ indicates that nearly all NEPA reviews for Science’s Recovery Act projects are complete.

At CEQ’s request, DOE included in its report an explanation of NEPA reviews that had been pending

for more than 3 months. This included 6 CX determinations, 11 EAs, and 5 EISs. These reviews had not been completed for three primary reasons: application review was still ongoing, DOE was awaiting sufficient project information to finalize the review, and the NEPA process was proceeding through the normal steps (e.g., public review).

Future Reports To Identify Benefits of NEPA Review

Section 1609(c) of the Recovery Act requires quarterly reports on NEPA activities related to implementing the Recovery Act through September 30, 2011. The next CEQ report to Congress will cover NEPA activities through December 31, 2009. Federal agency reports are due to CEQ by January 15, 2010, and CEQ will submit the report to Congress in February.

Over the summer, DOE received applications for competitive solicitations for Recovery Act funding (e.g., for advanced battery manufacturing, carbon sequestration, geothermal energy development). DOE’s next two reports to CEQ will identify the new EAs and EISs required for these applications. For example, the National Energy Technology Laboratory in November 2009 initiated 18 EAs for applications received under the advanced battery manufacturing solicitation. This is consistent with a trend that CEQ noted in its November 2 report that “many agencies continue to exhaust their ‘shovel ready’ projects which have completed environmental analyses and are fully permitted, approved, and ready for implementation” and are shifting to projects that “can be expeditiously developed and reviewed for implementation.”

DOE’s future reports also will continue to explain the status of ongoing NEPA reviews. CEQ has revised its guidance to require identification of any NEPA reviews pending over multiple reports, an explanation why they remain pending in more than one quarterly report, and a summary of progress made since the last report.

In addition, Chair Sutley explained in her memorandum that agencies must now “provide examples of the benefits provided as a result” of NEPA reviews. “The intent of the NEPA process is to help public officials make decisions that are based on an understanding of the environmental consequences of those decisions and take actions that protect, restore and enhance the environment,” she wrote.

The CEQ reports to Congress are available at www.nepa.gov. For more information, contact Brian Costner, DOE Office of NEPA Policy and Compliance, at brian.costner@hq.doe.gov or 202-586-9924.

¹ CEQ reports that the number of EISs is lower than in the previous report due to an error that identified the total number of projects analyzed in a programmatic EIS as the total number of EISs; this error did not affect DOE’s report.

DOE Issues Comprehensive Draft EIS for Hanford Tank Closure and Waste Management

By: Carrie Moeller, Office of NEPA Policy and Compliance

The much-anticipated Draft Tank Closure and Waste Management EIS for the Hanford Site, Richland, Washington (Draft TC & WM EIS) was issued by DOE, in cooperation with the State of Washington's Department of Ecology (Ecology), in late October for a 140-day public comment period. This complex EIS includes the scope of three earlier EIS efforts (text box) and will inform DOE decisionmaking on the management of radioactive waste at the Hanford Site.

Working closely with Ecology in preparing the Draft TC & WM EIS, DOE shared data and analyses, allowing Ecology to independently verify EIS methodologies and results. In a Foreword to the Draft EIS, Ecology stated, “[b]ased on [our] involvement to date, we believe that positive changes have been made to address data quality shortcomings in the [Hanford Solid Waste] EIS.”

The information in this document will help shed light on many key decisions that remain to be made about the Hanford Site cleanup.

– State of Washington's Department of Ecology, describing the importance of the Tank Closure and Waste Management EIS in its Foreword

Origins of the TC & WM EIS

While responding to the State of Washington's discovery requests for ongoing litigation in 2005 concerning the *Final Hanford Site Solid (Radioactive and Hazardous) Waste Program EIS* (DOE/EIS-0286, January 2004), DOE identified significant quality issues in the groundwater analysis in that EIS. DOE agreed in a 2006 settlement agreement with the State of Washington to prepare a single EIS that would provide an integrated evaluation of proposed waste management activities at Hanford and a comprehensive, site-wide reanalysis of groundwater impacts. DOE subsequently issued a Notice of Intent to prepare the TC & WM EIS in February 2006. (See [LLQR, March 2006, page 1.](#))

DOE incorporated lessons learned from its experience with the Hanford Solid Waste EIS and the related quality assurance issues for the groundwater analysis, and



The Hanford Site's single-shell underground storage tank system was built from 1943–1964. The Draft EIS analyzes the potential environmental impacts of closure of Hanford's 149 single-shell tanks.

used its relationship with Ecology, an agency with extensive technical expertise and knowledge of the Hanford Site, to help ensure the adequacy of the Draft TC & WM EIS analyses.

Ecology Explains View in Foreword to EIS

In its Foreword to the Draft TC & WM EIS, Ecology outlined its role as a cooperating agency, explained its regulatory relationship, and identified areas of agreement, disagreement, and concern with regard to tank closure and waste management at the Hanford Site. Ecology agreed with the overall modeling approaches for vadose zone and groundwater analyses, the methods for evaluating and using waste inventory data, and the EIS's technical guidance document, which focuses on parameters shown to be important to the groundwater analysis. Ecology, however, underscored concerns it has regarding the “significant uncertainty” surrounding high-level radioactive waste (HLW) disposal, and EIS assumptions for a particular supplemental treatment technology for low activity waste, among other things.

After issuance of the Final TC & WM EIS, Ecology will determine if the EIS can be adopted in whole or in part to satisfy the requirements of the Washington State Environmental Policy Act. (Ecology may revise its Foreword in the Final TC & WM EIS.)

(continued on next page)

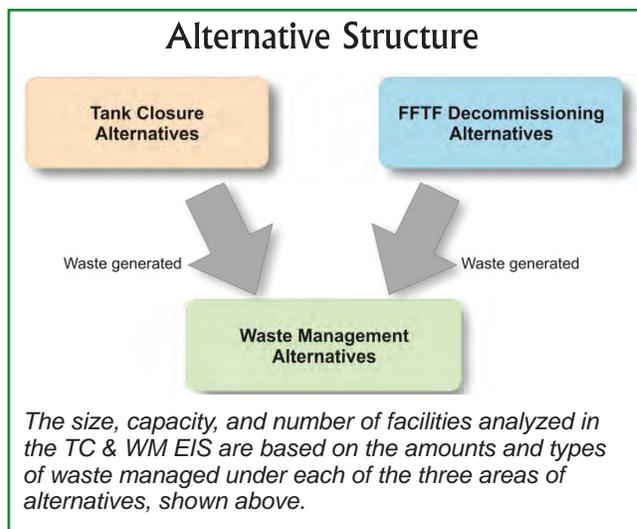
Hanford Tank Closure *(continued from previous page)*

Three Sets of Actions Analyzed

The Draft TC & WM EIS considers three sets of actions: waste management, decommissioning of the Fast Flux Test Facility (FFTF) – a nuclear test reactor, and tank treatment and closure. CEQ regulations require an agency to identify its preferred alternative(s), if one or more exists, in a draft EIS (40 CFR 1502.14(e)). DOE has identified preferred alternative(s) for each of the three sets of actions.

Waste Management – Preferred Alternative Includes Proposed Settlement’s Off-Site Waste Limitation

DOE and the States of Washington and Oregon announced a new proposed legal settlement in August 2009, which includes milestones for managing radioactive waste at the Hanford Site that will go into effect under the Tri-Party



(continued on next page)

Scope and Alternatives of the Draft Tank Closure and Waste Management EIS

The approximately 6,200-page Draft TC & WM EIS includes the scope of two previously-ongoing EISs (the Tank Closure EIS and the Fast Flux Test Facility (FFTF) Decommissioning EIS) and one completed EIS (the Hanford Solid Waste EIS¹). Also, the Draft TC & WM EIS contains a site-wide, quantitative analysis of the cumulative impacts of other past, present, and reasonably foreseeable actions at Hanford.

The Draft TC & WM EIS analyzes alternatives in three areas: tank closure (11 alternatives), FFTF decommissioning (3 alternatives), and waste management (3 alternatives) – a total of 17 alternatives.

- 1. Tank closure**, including retrieving and managing radioactive waste from the 177 underground storage tanks and closure of the single-shell tank system (149 of 177 tanks). The Draft TC & WM EIS:
 - Analyzes alternatives for removing, treating, and packaging the waste, and closing the single-shell tank system, and
 - Builds on analyses initiated in 2003 for the Tank Closure EIS.
- 2. Decommissioning of FFTF**, a nuclear test reactor, and its ancillary facilities. The Draft TC & WM EIS:
 - Analyzes alternatives for dismantling and removing FFTF-related structures, equipment, and materials; treating and disposing of these components and equipment; and closing the area permanently, and
 - Completes the analyses initiated in 2004 for the FFTF Decommissioning EIS.
- 3. Continued and expanded solid waste management operations**, including the disposal of Hanford’s low-level radioactive waste (LLW) and mixed low-level radioactive waste (MLLW) and limited volumes of LLW and MLLW from other DOE sites. The Draft TC & WM EIS:
 - Analyzes alternatives for continued storage of LLW, MLLW, and transuranic waste at Hanford, onsite waste processing, disposal of onsite-generated waste in new onsite facilities, and closure of disposal facilities, and
 - Updates and revises the 2004 Hanford Solid Waste EIS analyses, including a re-evaluation of potential impacts from on-site disposal of low-level and mixed low-activity radioactive waste.

¹ DOE published a NOI for the EIS for Retrieval, Treatment, and Disposal of Tank Waste and Closure of Single-Shell Tanks at the Hanford Site, Richland, Washington (Tank Closure EIS) (68 FR 1052) and the EIS for the Decommissioning of the Fast Flux Test Facility at the Hanford Site, Richland, Washington (FFTF Decommissioning EIS) (69 FR 50176) in January 2003 and August 2004, respectively. In the June 2004 Record of Decision for the Hanford Solid Waste EIS (69 FR 39449), DOE decided to dispose of Hanford LLW and MLLW and a limited volume of off-site LLW and MLLW in a new integrated disposal facility in the 200-East Area at Hanford. Upon completion, the Final TC & WM EIS will supersede the Hanford Solid Waste Final EIS (per the 2006 settlement agreement).

Hanford Tank Closure (continued from previous page)

Agreement¹ once a new Consent Decree (also part of the proposed settlement) is approved by the court. In the proposed settlement, which is open for public comment until December 11, DOE agreed to identify a preferred alternative in the EIS that would include limitations and exemptions to off-site waste importation to Hanford until at least the Waste Treatment Plant is operational.² DOE explained in the Draft TC & WM EIS that it prefers disposal of onsite-generated low-level radioactive waste (LLW) and mixed low-level radioactive waste (MLLW) in a single integrated disposal facility.

FFTF Decommissioning – Entombment Preferred

For decommissioning of FFTF, DOE identified the “entombment” alternative as preferred, which would remove all above-grade structures, including the reactor building, and allow below-grade structures to “remain in place” and be filled with grout. Also, remote-handled special components from FFTF would be processed at DOE’s Idaho National Laboratory, but FFTF’s bulk sodium inventories would be processed at Hanford.

Tank Closure – Range of Preferred “Options”

DOE does not have a specific preferred alternative for tank closure. Rather, DOE identified a range of preferred retrieval, treatment, closure, and storage options, and the Draft TC & WM EIS identifies the tank closure alternatives that satisfy each of DOE’s preferred options.

Specifically, DOE prefers the tank closure alternatives that would:

- Retrieve at least 99% of the tank waste
- Allow for separation and segregation of tank waste for management and disposition as LLW and HLW
- Involve “landfill closure” (as opposed to clean closure) of the single-shell tanks, and
- Ship immobilized HLW canisters for disposal off site.

New Direction

As indicated in the Obama Administration’s fiscal year 2010 budget request, the Administration intends to terminate the Yucca Mountain program – development of the site as a geologic repository for the disposal of HLW and spent nuclear fuel (SNF) – while developing nuclear waste disposal alternatives. DOE remains committed to meeting its obligations to manage and ultimately dispose of HLW and SNF. Further, the Administration intends to convene a blue ribbon commission to evaluate alternative approaches for meeting these obligations and provide recommendations that will form the basis for working with Congress to revise the statutory framework for managing and disposing of HLW and SNF.

In response to this new direction, DOE modified the preliminary Draft TC & WM EIS, removing the assumption and corresponding analyses that HLW would be sent to a geologic repository for disposal. The Draft EIS findings are not affected by plans to study HLW disposition alternatives because the analysis shows that vitrified HLW can be safely stored at Hanford for many years.

Next Steps

DOE plans to hold a series of public hearings in the new year, to be announced in a *Federal Register* notice and via other means, such as in local media, during the public comment period that ends March 19, 2010. The proposed settlement agreement is available on the DOE Office of River Protection’s website on the Events Calendar at www5.hanford.gov/hanford/eventcalendar. The Draft TC & WM EIS is available on both the DOE NEPA Website at www.gc.energy.gov/nepa and the Office of River Protection’s website at www.hanford.gov/orp (click on “Tank Closure & WM EIS Info”). For further information about the Draft TC & WM EIS, please contact Mary Beth Burandt, NEPA Document Manager, at 509-372-7772. 

¹ The Tri-Party Agreement, also known as the Hanford Federal Facility Agreement and Consent Order, is an agreement originally signed in 1989 by DOE, the U.S. Environmental Protection Agency, and Ecology that identifies milestones for key environmental restoration and waste management actions at the Hanford Site. A consent decree, which is filed in court, is a legally-enforceable document containing specific commitments.

² The Waste Treatment Plant refers to facilities being constructed in Hanford’s 200-East Area that will thermally treat and immobilize tank waste. In late October, in response to stakeholder concerns as to why the limitation on importing off-site waste to Hanford until the Waste Treatment Plant is operational did not include Greater-than-Class-C waste, DOE issued a statement that even though the proposed settlement agreement did not cover this type of waste, Greater-than-Class-C waste will not be imported to Hanford for the duration of the moratorium that defers importation of off-site waste.

Y-12 Public Hearings Show Different Perspectives

By: Jim Sanderson, Office of NEPA Policy and Compliance

In my 12 years with DOE's NEPA Office, I've attended many EIS public hearings. They are always an adventure for me because I never know what to expect. Will skits be performed? Will songs be sung? Will security guards be needed? One of the things I love most about my job is the public participation aspect of the NEPA process. Regardless of people's views, it makes me proud to work for a program and, in a larger sense, to live in a country where diverse viewpoints regarding major Federal proposals can be expressed in a public forum. On November 17–18, 2009, I attended two public hearings on the Y-12 Draft Site-wide EIS (SWEIS), conducted by the National Nuclear Security Administration's (NNSA's) Y-12 Site Office. Once again, I was not disappointed!

Stations, Posters, and Pamphlets

NNSA's New Hope Center in Oak Ridge, Tennessee, the location of the public hearings, is an impressive facility. It boasts a large auditorium with state-of-the-art media features. Just outside the auditorium there is a large receiving hall that is perfect for displays and information sessions. Half an hour before the hearings began, DOE representatives and contractors, and site proponents (representatives of state and local organizations) were available to answer questions and receive informal public comments. A station was available for attendees to submit written comments and questions. These sessions also featured colorful poster displays that were easy to follow and showed a comparison of today's Y-12 complex versus what NNSA expects Y-12 to look like in the future.

Contrasting Viewpoints

Both hearings were heavily attended with 121 present at the first hearing (evening) and 145 at the second hearing (morning). The evening hearing had a significant presence



Informal session at Y-12 Draft SWEIS public hearing.

of environmental groups opposed to the proposal and critical of the SWEIS. The morning hearing was dominated by people in favor of the proposal and the SWEIS analyses.

Kevin Smith, Deputy Manager of the Y-12 Site Office, gave the opening remarks and assured those in attendance that "NNSA would fully consider and respond to the comments received and make appropriate changes to the SWEIS as warranted." He announced that NNSA had extended the comment period through January 29, 2010, based on feedback from the public. Pam Gorman, NEPA Document Manager, gave a presentation on the proposed actions, timelines, alternatives, impacts analyzed, and the public comment process.

Next Steps

NNSA plans to publish the Final SWEIS and issue a Record of Decision in Spring 2010. Additional information about the Y-12 SWEIS is available at www.y12sweis.com. Pam Gorman can be reached at gormanpl@yso.doe.gov or 865-576-9903.

Revised Background Radiation Exposure Estimates



Average annual radiation exposure from all sources has increased by about 70 percent in the United States since the early 1980s, according to 2006 estimates released earlier this year by the National Council on Radiation Protection and Measurements (NCRP). Average total background radiation exposure is now estimated at 620 millirem per year (mrem/yr) compared to 360 mrem/yr estimated in the 1980s. Nearly all the increase is due to the growth in the use of medical imaging procedures, with medical exposures now estimated to contribute 300 mrem/yr compared to 53 mrem/yr in previous estimates. Estimates of ubiquitous background (i.e., excluding medical, consumer, and industrial products, and occupational exposures) increased from 300 mrem/yr to 311 mrem/yr, according to the NCRP.

DOE should use the updated estimates in its NEPA documents when providing perspective on radiation exposure. In presenting the updated estimates, it will be helpful to clearly identify the contributors to the exposure estimates (ubiquitous background, medical sources, etc.). As stated in DOE's *Recommendations for Preparing Environmental Assessments and Environmental Impact Statements* (2004), "Do not assert that the average annual effective dose equivalent caused by a project translates to an insignificant increase in risk simply because it constitutes only a small increase above background . . ."

For additional information on the NCRP's revised estimates, see NCRP Report No. 160, *Ionizing Radiation Exposure of the Population of the United States*, available at www.ncrppublications.org.

DOE CX Determinations Online (continued from page 1)

Each office determines the best way to implement the new policy. Some DOE offices (e.g., Bonneville Power Administration, Savannah River Operations Office) already had a web page to post site-specific EAs and EISs, and have added CX determinations. The National Energy Technology Laboratory revised its standard CX determination template and created a new web page to list CX determinations and relevant information, such as funding recipient and project location.

We want to do everything we can to increase transparency. I've already received positive feedback from inside the administration, including the Council on Environmental Quality, and from the public about this decision to post CX determinations online.

— Scott Blake Harris, DOE General Counsel

The NEPA Office is exploring measures to make the posting of CX determinations more user-friendly, such as providing a centralized search capability for CX

Classified and Confidential Information Concerns Addressed in CX Policy Implementation Guidance

In the October 16, 2009, implementation guidance, DOE advises, among other things:

- Do not post information that DOE would not disclose pursuant to the Freedom of Information Act.
- Follow existing procedures where classified and confidential information may be involved.
- In most cases, it should be possible to avoid including classified or confidential information in a CX determination. Seek to redact such information first.
- Post a CX determination only after all classified and confidential issues have been resolved.
- A CX determination may be posted if it contains only publicly available information.

determinations on the DOE NEPA Website. Requests for more information on the CX posting policy may be addressed to askNEPA@hq.doe.gov. 

EERE Electronic CX Determination Form

To simplify compliance with DOE's new web-posting policy for categorical exclusion (CX) determinations, the Office of Energy Efficiency and Renewable Energy (EERE), in consultation with the Office of NEPA Policy and Compliance, has prepared an electronic form using Adobe Acrobat. The new electronic form is modeled on DOE's 1998 guidance on CX determinations and a template developed by the National Energy Technology Laboratory. The form may be used by any DOE Program or Field Office NCO.

"I wanted to create a form that would be both completely electronic and completely user-friendly, cutting down on the steps needed to make and post a CX determination," explained John Jediny, EERE Environmental Specialist. It automates the processes to:

- Document a CX determination, typically on a single page
- Attach supporting documents (e.g., Microsoft Office, Adobe Acrobat, or zip files)
- Sign the CX determination electronically
- Save and forward the CX determination as a pdf file
- Print a copy for office records, and
- Transfer data into a spreadsheet for reporting.



The electronic CX determination form has several features to make completion easier, including: copy and paste functions, easy entry of calendar dates, drop-down lists of states and territories and of the DOE CXs, and a hyperlink to 10 CFR Part 1021.

The Electronic CX Determination Form is posted at www.gc.energy.gov/nepa under DOE NEPA Documents, then Categorical Exclusion Determinations. For information on adapting the form, contact Mr. Jediny at john.jediny@ee.doe.gov; for information on posting CX determinations on the DOE NEPA Website, contact Denise Freeman, DOE NEPA Webmaster, at denise.freeman@hq.doe.gov. 



New Executive Order Assigns Priority to Greenhouse Gas Reduction and Sustainability

A new Executive Order (E.O.) directs Federal agencies to set specific targets for reducing greenhouse gas (GHG) emissions and adopt measures to attain those targets. The E.O. further directs agencies to enhance other aspects of sustainability by reducing water consumption, minimizing waste, supporting sustainable communities, and using Federal purchasing power to promote environmentally-responsible products and technologies. President Obama issued E.O. 13514, *Federal Leadership in Environmental, Energy, and Economic Performance* (74 FR 52117; October 8, 2009), to establish an integrated strategy for sustainability and make reduction of GHG emissions a Federal agency priority.



GHG Reduction Goals and Reporting

The new E.O. builds on E.O. 13423, *Strengthening Federal Environmental, Energy and Transportation Management*, issued in 2007. While the earlier E.O. promoted the reduction of GHG indirectly, as a consequence of agencies' reducing energy intensity (i.e., lowering consumption per square foot of building space), the new E.O. obligates agencies to directly establish reduction targets for various types of GHG sources. Agencies must comprehensively track progress and report annually to the Chair of the Council on Environmental Quality and the Director of the Office of Management and Budget (OMB) in three GHG emission categories: Scope 1 – direct emissions from sources owned or controlled by the agency; Scope 2 – direct emissions from generation of electricity, heat, or steam purchased by the agency; and Scope 3 – emissions from sources not owned or controlled by the agency but related to agency activities, such as vendor supply chains, delivery services, and employee travel and commuting.

Energy Analyses Required in NEPA Review for New or Expanded Federal Facilities

The E.O. requires the analysis of energy consumption in certain NEPA documents. Federal agencies must

“advance regional and local integrated planning by identifying and analyzing impacts from energy usage and alternative energy sources” in all EAs and EISs for proposals for new or expanded Federal facilities. The E.O. directs agencies to ensure that planning for new Federal facilities or new leases includes consideration of sites that are pedestrian-friendly, near existing employment centers, and accessible to public transit.

Strategic Sustainability Performance Plan

The E.O. statement of policy emphasizes the value of prioritizing actions based on a full accounting of economic and social benefits and costs, and annual performance evaluation to support the extension or expansion of effective measures. To implement the E.O., each agency must submit an annual Strategic Sustainability Performance Plan, subject to approval by the OMB Director, to address, among other topics:

- Sustainability policy and goals, including GHG reduction targets
- Integration with agency strategic planning and budgeting
- Schedules and milestones for all activities that implement the E.O.
- Evaluation of past performance based on net lifecycle benefits, and
- Planning for adaptation to climate change.

The E.O. states “that it is also the policy of the United States that agencies’ efforts and outcomes in implementing this order shall be transparent and that agencies shall therefore disclose results associated with the actions taken pursuant to this order on publicly available Federal websites.” For further information on the E.O. and other sustainability matters, see the website of the Federal Environmental Executive at www.ofee.gov. LL

BPA Recognized for Environmental Leadership

DOE’s Bonneville Power Administration (BPA) earned the “Overall Environmental Leadership Award” in the 2009 Champions of Environmental Leadership and Green Government Awards program of the Environmental Protection Agency, Region 10. This program recognizes individuals and initiatives that have gone beyond regulatory compliance and show measurable progress towards target measures involving energy, transportation, waste, and water. To facilitate the adoption of sustainable business practices – and ensure that the agency is indeed “walking its talk” – BPA created an internal “Green Team” in 2007 that supported energy-saving measures in building lighting, heating, and cooling; changes in the automobile fleet; water usage audits of headquarters and field sites; and a program to reduce, reuse, and recycle computer equipment. For more information, contact Darby Collins at dacollins@bpa.gov or 503-230-3811.





My Exploration of NEPAssist

By: Julie A. Smith, Office of NEPA Policy and Compliance

When I was asked to perform an expedited review of an EIS, I needed a tool that would help me quickly and effectively accomplish the task. I came across discussions in earlier editions of *Lessons Learned* that reminded me about the Environmental Protection Agency's (EPA's) nationwide Geographic Information System application, NEPAssist ([LLQR, December 2008, page 7](#); [September 2008, page 1](#)). NEPAssist displays several sets of environmental data spatially and allowed me to go on a "virtual site visit" of the proposed project.

I had worked with NEPAssist before coming to DOE this spring, and was aware of the potential benefits of using the web-based tool for both preparers and reviewers of NEPA documents: identifying important environmental issues at early stages of project development, focusing on significant environmental impacts, helping direct project siting to areas that are the least environmentally sensitive, and facilitating collaboration during the preparation of NEPA documents. NEPAssist also offered an opportunity to follow one of General Counsel Scott Blake Harris's operating principles: to identify and use modern information technologies to improve the review of DOE NEPA documents ([LLQR, September 2009, page 7](#)). So I decided to explore the world of NEPAssist, and have gained a better appreciation of its value.

Traveling Essentials

How To Get There

I first needed information on the location of alternative project sites – which I found in the EIS Notice of Intent. While an actual street address is optimal, and I was lucky to find this information for one alternative site, various types of input can be used in NEPAssist to locate a site. I found one alternative site by identifying the county in which it was located, another by using mapping coordinates (i.e., latitude and longitude), and yet another by selecting a feature of interest (e.g., a river) in the vicinity of the site. More precise information resulted in less time to find a site because I could quickly go to a location rather than spending time "looking around" in the virtual vicinity of a site.

What To Bring

Depending on the information and materials that were available to me, there were several ways to explore the various layers of information found in NEPAssist. Comments submitted during the EIS scoping period

guided me to specific data layers. For example, comments about disproportionate impacts on a minority community adjacent to the site led me to choose the Environmental Justice Demographic Mapping Tool data available through NEPAssist. I was able to assess demographic, health, economic, and employment data (and compare site data to that for the county and state) at various distances from alternative sites to better understand potential environmental justice considerations.

Other scoping concerns related to proximity to wetlands and potential flooding led me to select the U.S. Fish and Wildlife Service wetlands and Federal Emergency Management Agency floodplain data layers. I could easily determine whether the project would be located in a wetland or floodplain, and whether a wetland and floodplain assessment would be needed in the EIS. Specifically, once I chose the data layers to be applied to the project site map, I outlined the footprint of the proposed project on the map, and then used the NEPAssist application to generate a report that identified nearby resources (e.g., number of streams and wetlands located 400 meters from the site? or was the site located within a 100-year floodplain?). In the end, "packing" scoping comments when using the NEPAssist application made my review more efficient because non-significant issues were given less priority from the onset.

Let Realistic Expectations Guide You

It is very important for the NEPAssist journey to be guided by realistic expectations. The data and geographic layering capabilities offered by the technology allow for visualization in many formats (e.g., two-dimensional or three-dimensional; road map or topographical map; or aerial photo or satellite image) and for simultaneous display of data. However, the value of NEPAssist is limited by how often the data are updated (e.g., vegetation land cover data in NEPAssist are from 2001) or if data are not readily available in a consistent format or at the same level of detail. For instance, data regarding municipal or hazardous waste landfills are unavailable in NEPAssist because this information is often maintained by state and local authorities in a variety of formats that require great expense and effort to make compatible for use in the NEPAssist application. Data on existing agency facilities would also have been useful for assessing cumulative impacts more effectively, and EPA is seeking to make data in NEPAssist more robust through partnerships with other agencies ([LLQR, December 2008, page 7](#)).

(continued on page 19)

DOE NEPA Webinar Offers Answers to Potential Loan Guarantee Applicants

More than 1,000 individuals participated in a NEPA compliance webinar, an online video presentation, conducted by the DOE Loan Guarantee Program Office in late September. Several potential applicants had requested to meet individually with the Loan Guarantee Program Office to discuss the environmental report requirements – the method by which the Office obtains the information needed for NEPA compliance.

“Given the high level of interest in the Loan Guarantee Program and large number of potential applicants, a creative means of maximizing the dissemination of useful guidance was needed. A webinar seemed a good choice for doing this,” said Matt McMillen, NEPA Compliance Officer for the Office of the Chief Financial Officer and Director of the Loan Guarantee Program Office’s NEPA Compliance Division.

Introducing the NEPA Process

Mr. McMillen began the webinar by explaining how NEPA applies to the Department’s Loan Guarantee Program. He identified the levels of NEPA review and explained the DOE consultation process with state and tribal historic preservation officers and the U.S. Fish and Wildlife Service. He also briefly summarized the key elements of an applicant’s environmental report, which is submitted with the Part II application, and clarified when DOE starts its NEPA review in the loan guarantee application process. In addition, the Loan Guarantee Program Office prepared and posted on its website a “NEPA Primer” fact sheet, as additional background information, and provided email addresses for the Loan Guarantee Program help desk and other useful references.

The length of time it takes to prepare a NEPA document is largely a product of the quality and timeliness of information submitted by the applicant.

– Matt McMillen

Questions and Answers

Following the presentation, Mr. McMillen and Michael Fraser, Program Manager, also of the Loan Guarantee Program Office, fielded more than 30 questions submitted by participants during the webinar. Many questions pertained to timing concerns and how an

When does DOE start the formal NEPA process for loan guarantee applications?

DOE determines the level of NEPA review required and begins the review process after it has:

- Deemed the application substantially complete
- Established the applicant’s financial and technical eligibility
- Extended an invitation to the applicant for further negotiation of loan guarantee terms, and
- Begun technical and financial due diligence review.

applicant might speed up the NEPA process. Mr. McMillen advised participants to start off with a good quality environmental report and discussed preparation of the report, including the specific content and use of environmental impact assessment contractors.

Mr. Fraser noted that the Loan Guarantee Office is attuned to scheduling issues and the impact it has on potential applicants. “The guidance we are following is not only to spend the money fast, but to spend it well, and to support a superior decisionmaking process. I think all of you as taxpayers want a decision process that is very thorough, accurate, and up to the highest professional standards,” he said.

Additional Information

The NEPA compliance webinar was the second such webinar conducted by the Loan Guarantee Program Office; the first webinar, “How to Build a Strong Application,” was offered in early September, and was designed to explain the program and help both lenders and applicants navigate the process of applying for DOE loan guarantees. In addition, Mr. McMillen participated in an industry-sponsored webinar on NEPA and the loan guarantee process with more than 100 participants in early November. The industry-sponsored webinar covered information and topics similar to that of the Loan Guarantee Program Office’s NEPA compliance webinar in late September.

The “NEPA Primer” fact sheet, presentation slides from the Loan Guarantee Program Office’s NEPA compliance webinar, and an audio recording of both the presentation and question and answer session from the webinar are available on the Loan Guarantee Program’s website at www.lgprogram.energy.gov. 

Federal Agencies Establish Memorandum of Agreement to Expedite Transmission Siting on Federal Lands

To expedite the siting of electrical infrastructure on Federal lands, DOE and eight other Federal agencies in late October 2009 joined in a Memorandum of Understanding (MOU).¹ Expanding and modernizing the electricity transmission grid, states the MOU, will improve reliability and help accommodate additional generating capacity, including from new, clean, low-carbon sources. The MOU will promote consistency and transparency by describing each entity's role and responsibilities, including management of the NEPA process, when project applicants wish to build electric transmission facilities.

The MOU, which supersedes a 2006 agreement, will help expedite the siting and construction of "qualified transmission projects" by improving the coordination among project applicants, Federal agencies, and states and tribes involved in the siting and permitting process. Qualified projects under the MOU are high voltage (generally 230 kilovolts or above) transmission line projects and associated facilities for which all or part of the proposed transmission line crosses jurisdictions administered by more than one of the participating agencies (with exceptions, such as transmission lines that cross the U.S. international border and facilities constructed by Federal Power Marketing Administrations).

DOE, under provisions of Section 216 of the Federal Power Act, as amended by Section 1221(a) of the Energy Policy Act of 2005, will designate a lead agency for each project with multiple participating agencies – generally, the agency with the most significant land management interests relating to the project. The lead agency is responsible for coordinating the Federal agency reviews, permits, and approvals, including NEPA. The lead agency role includes preparing "unified environmental documentation" to serve as the basis for all Federal decisions required to authorize the use of Federal lands, maintaining a consolidated administrative record, and serving as the point of contact for applicants, state agencies, Indian tribes, and other stakeholders.

The MOU outlines the responsibility of the lead agency to establish project schedules. Cooperating agencies are

obligated to make their respective decisions regarding permits or approvals in a timely manner:

- For a project for which an EA and finding of no significant impact are appropriate, within 1 year of receiving a completed application, and
- For a project for which an EIS is required, within 1 year and 30 days after the close of the public comment period for a draft EIS.

DOE's Office of Electricity Delivery and Energy Reliability (OE) participated in developing the MOU. This Office will provide technical expertise to a designated lead agency to help determine the suitability of proposed projects; evaluate technical, siting, and mitigation issues; and coordinate with regional electric power industry institutions. DOE will also assist a lead agency in establishing and tracking project schedules, and will maintain a publicly available project website with links to the information from all participating and cooperating agencies.

In the course of developing this MOU, the participating agencies exhibited a level of cooperation and coordination that I haven't seen in more than 30 years of government service. I believe the real success of this effort goes beyond the signing of the MOU, however, to the creation of a coordination process that will survive the individuals who worked on this document.

– Tony Como
Acting Deputy Assistant Secretary
for Permitting, Siting and Analysis, OE

For additional information, see the [MOU](#) or contact Tony Como at anthony.como@hq.doe.gov. 



¹ The MOU was signed by the Departments of Agriculture, Commerce, Defense, Energy, and the Interior; the Environmental Protection Agency; the Council on Environmental Quality; the Federal Energy Regulatory Commission; and the Advisory Council on Historic Preservation.

Litigation Updates



DOE NEPA Litigation

District Court Validates EA on Kansas City Plant Relocation

The U.S. District Court for the District of Columbia granted the Government's motion for summary judgment on October 19, 2009, in a case challenging the *Environmental Assessment for the Modernization of Facilities and Infrastructure for the Non-Nuclear Production Activities Conducted at the Kansas City Plant* (DOE/EA-1592, April 2008) and associated finding of no significant impact (FONSI) (73 FR 23244; April 29, 2008) prepared by the General Services Administration (GSA) and the National Nuclear Security Administration (NNSA). The court rejected each of the plaintiffs' challenges to the EA. The decision opens the way for construction of a new facility in the Kansas City, Missouri, area to house NNSA operations to manufacture and procure nonnuclear components for nuclear weapons. (See [LLQR, December 2008, page 34.](#))

In its oral ruling from the bench, the court held that an analysis of the disposition of existing facilities at the Bannister Federal Complex (site of the Kansas City Plant for the past 60 years) was not required in the EA, in large part because such analysis would not be meaningful absent a specific disposition proposal, and that even though GSA and NNSA had considered the general need for disposition of those facilities, the expression of that need was not sufficient to require analysis in the EA.

In addressing the plaintiffs' allegation that GSA and NNSA had predetermined the outcome of the NEPA

process, the court acknowledged a number of steps by the agencies that clearly indicated a preferred alternative. The court concluded, however, that the agencies had not predetermined the outcome of the NEPA process prior to completion of the EA and the issuance of the FONSI, and had not made an irreversible and irretrievable commitment of resources toward the preferred alternative. The court also recognized that while the Draft EA considered only alternatives at the current and preferred locations, the Final EA responded to public comments with a discussion of other alternatives that were analyzed in the same level of detail as the preferred and no action alternatives.

The court also addressed the plaintiffs' allegation that GSA had not followed its own NEPA implementing requirements as identified in GSA's *NEPA Desk Guide*. The court held that where an agency lists an action as "normally" requiring an EIS, the agency is not required to prepare an EIS for that action. In this case, the court held that the EA sufficiently addressed the potential environmental impacts associated with the Council on Environmental Quality significance factors in determining whether to prepare an EIS. The court entered its final appealable order and judgment in the case on November 19. (*Natural Resources Defense Council v. DOE*, Case No.: 08-01709 (D. D.C.))

Appeals Court Affirms DOE's NEPA Compliance for West Valley

The U.S. Court of Appeals for the Second Circuit affirmed in August a district court's 2007 ruling in favor of DOE in a long-standing dispute regarding DOE's nuclear waste management and site closure activities at the West Valley Demonstration Project (WVDP) near Buffalo, New York. The District Court for the Western District of New York previously held that DOE did not violate NEPA or a 1987 settlement between DOE and an environmental organization.

The appellants, *Coalition on West Valley Nuclear Wastes* and a private citizen, alleged that: (1) DOE had improperly segmented the environmental impact review of the WVDP actions by "rescoping" the EIS into one EIS for decontamination and waste management and a second EIS for decommissioning the Western New York Nuclear Service Center, which includes the WVDP site; (2) DOE's

revised strategy for environmental review breached a stipulation – to prepare an EIS – made in a 1987 agreement that settled a 1986 lawsuit; and (3) DOE lacks the authority to reclassify waste as "waste incidental to reprocessing." (See [LLQR, December 2007, page 22.](#))

The appellate court upheld the district court's finding that DOE had not engaged in improper segmentation by preparing two separate EISs for waste management and site closure. Further, the court held that since the action by DOE did not violate NEPA, there was no breach of the settlement agreement. With respect to the third claim, the court upheld the district court's determination that this issue was not ripe for review because the appellants failed to develop their argument in their brief on appeal. (Case No.: 07-5243; August 31, 2009, opinion at www.ca2.uscourts.gov/opinions.htm)

(continued on next page)



Other Agency NEPA Litigation

Five recent legal decisions involving NEPA issues are summarized below, listed by lead plaintiff.¹ Due to the number of cases covered in this issue, LLQR summarizes the outcomes below, using the court's language, as appropriate; in LLQR online, the computer icon  links to the full opinion. We encourage readers to examine the entire opinion for cases of interest.

- In *Center for Biological Diversity*, the appeals court reversed the district court's approval of a land exchange, finding that an EIS and record of decision (ROD) for the exchange failed to compare the environmental impacts of alternatives.
- In *Center for Food Safety*, the district court found that the potential spread of pollen from a genetically-engineered crop to non-engineered crops constitutes a significant effect on the environment requiring preparation of an EIS.
- In *Natural Resources Defense Council*, the district court found that the agency, in issuing a permit for a cross-border pipeline, had exercised the President's discretionary power, which is not subject to NEPA.
- In *North Slope Borough*, the appeals court found that an agency had satisfied NEPA requirements by taking a "hard look" at new information concerning potential impacts of activities related to an oil and gas lease sale in the Beaufort Sea outer-continental shelf and is not required to prepare a supplemental EIS.
- In *State of California*, the appeals court permanently enjoined implementation of the State Petitions Rule and affirmed a district court ruling reinstating the Roadless Area Conservation Rule upon finding that a rulemaking was not merely procedural but had potentially significant impacts.

Center for Biological Diversity v. Department of the Interior

- **Agency Action:** The Department of the Interior, Bureau of Land Management (BLM), after preparing an EIS and issuing a ROD, approved a proposed exchange of public and privately owned land with Asarco LLC, a mining company.
- **NEPA Issue:** The appeals court found that BLM assumed that the foreseeable uses of the land and consequently the environmental impacts caused by the mining operations would be the same for all alternatives, irrespective of the proposed land exchange. **"Because the BLM has conducted no comparative analysis, we hold that it has not taken a "hard look" at the environmental consequences of its proposed action' in violation of NEPA"**
- **Other Issues:** The court found that the determination contained in the ROD – that the proposed land exchange is in the "public interest" within the meaning of the Federal Land and Policy Management Act – was arbitrary and capricious. This determination was based on "an erroneous assumption" that mining operations would not be affected by the land exchange.



- U.S. Court of Appeals for the Ninth Circuit. Case No.: 07-16423; September 14, 2009.

¹ Many cases have multiple plaintiffs and defendants, which may change over the duration of litigation. In LLQR Litigation Updates, cases are referred to by the lead plaintiff and first defendant agency as identified in the opinion (but omitting "et al."). Thus, the defendant in cases involving the USDA Forest Service, for example, may be identified as USDA or USDA Forest Service in LLQR; in the broader literature these cases may be known by the name of the Secretary of Agriculture or the Chief of the Forest Service at the time the legal document was issued.

(continued on next page)



Center for Food Safety v. Department of Agriculture

- **Agency Action:** After preparing an EA and issuing a finding of no significant impact, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, approved deregulation of sugar beets that are genetically engineered to be resistant to glyphosate (“Roundup,” a weedkiller). Monsanto Company, which produces the beets, had petitioned APHIS to deregulate the sugar beets because they “do not present a plant pest risk.” (The genetically-engineered material is derived from and delivered into the beet DNA by plant pathogens.)
- **NEPA Issues:** The court ordered that APHIS prepare an EIS because the EA did not evaluate factors with potentially significant effect on the human environment: potential elimination of a farmer’s choice to grow non-genetically-engineered crops and a consumer’s choice to eat non-genetically-engineered food. The court found that APHIS was cursory in its consideration of the distance beet pollen can travel by wind, and its potential to cross-pollinate sugar beets, table beets, and Swiss chard. APHIS claimed that it was not required to analyze the economic impacts of deregulation on farmers and processors seeking to avoid genetically-engineered sugar beets. The court disagreed, finding that economic effects are relevant and must be addressed in the environmental review when they are interrelated with natural or physical environmental effects. The court found that the APHIS **“finding of no significant impact was not supported by a convincing statement of reasons and thus was unreasonable.”**
- U.S. District Court for the Northern District of California. Case No.: 08-00484; September 21, 2009.



Natural Resources Defense Council v. Department of State

- **Agency Action:** The U.S. Department of State issued a presidential permit to TransCanada Keystone, LP to develop a cross-border oil pipeline between the United States and Canada. The State Department was delegated the authority to issue permits for the construction of oil pipelines across the border of the United States by Executive Order 13337. (DOE was a cooperating agency in preparation of the EIS but not a party to the lawsuit.)
- **NEPA Issue:** The Natural Resources Defense Council suit against the State Department was based on a claim that issuance of the permit violated NEPA due to a deficient EIS. The court found that the State Department proceeded on behalf of the President and **“the President’s authority to issue permits for cross-border pipelines is completely discretionary and is not subject to any statutory limitation, including NEPA’s impact statement requirements.”**
- U.S. District Court for the District of Columbia. Case No.: 08-1363; September 29, 2009.



North Slope Borough v. Minerals Management Service

- **Agency Action:** The Department of the Interior, Minerals Management Service (MMS), in 2003 prepared an EIS for three proposed oil and gas lease sales within Alaska’s Beaufort Sea scheduled between 2003 and 2007. In 2006, MMS prepared an EA for Lease Sale 202, scheduled for 2007, to determine whether any new information would necessitate preparation of a supplemental EIS.² MMS issued a “Finding of No New Significant Impacts.”
- **NEPA Issues:** The District Court of Alaska upheld the MMS determination that the potential impacts from Lease Sale 202 did not require a supplemental EIS. The appeals court affirmed the district court’s finding that the MMS satisfied NEPA requirements by taking a “hard look” at new information concerning potential impacts as it adequately addressed the impact of seismic activity on Inupiat subsistence activities, the effectiveness of existing and newly proposed mitigation measures, and the risks posed to polar bears by the cumulative effects of global warming. In addition, the appeals court rejected the argument that the MMS violated NEPA when it failed to disclose dissenting opinions from its scientists on whether a supplemental EIS was needed to address new information on the impacts of Lease Sale 202 on Arctic wildlife because the requirement to do so applies to an EIS, not an EA. Finally, the appeals court found **“MMS’s use of significance thresholds in interpreting and applying the significance factors . . . does not violate NEPA.”**
- U.S. District Court, District of Alaska. Case No.: 07-0045; April 12, 2007.
U.S. Court of Appeals for the Ninth Circuit. Case No.: 08-35180; August 27, 2009.



(continued on next page)

² DOE would call such an evaluation a “supplement analysis” (10 CFR 1021.314(c)).



State of California v. USDA Forest Service

- Agency Action:** The U.S. Department of Agriculture Forest Service in May 2005 adopted the State Petitions for Inventoried Roadless Area Management Rule (State Petitions Rule). The State Petitions Rule effectively repealed the Roadless Area Conservation Rule (36 CFR Part 294, also known as the Roadless Rule), which affords greater protection of unspoiled areas of national forests.
- NEPA Issues:** The Forest Service categorically excluded the State Petitions Rule because the “final rule is merely procedural in nature and scope and, as such, has no direct, indirect, or cumulative effect on the environment.” In 2006 the Northern District Court of California found for the plaintiffs on all NEPA claims, setting aside the State Petitions Rule and reinstating the Roadless Rule. (See [LLQR, September 2007, page 20.](#)) The Forest Service appealed, challenging the district court’s holding that environmental analysis was required. The district court held that **“the replacement of the Roadless Rule’s uniform substantive protection with a less protective and more varied land management plan would qualify as significant, therefore meeting the requirements of NEPA.”** The Ninth Circuit Court of Appeals agreed with the district court that the Forest Service’s characterization of the State Petitions Rule as “merely procedural in nature and scope” was unreasonable.
- Other Issues:** The Forest Service also challenged the district court’s holding that consultation was required under the Endangered Species Act (ESA) and the court’s authority to reinstate the Roadless Rule. Upon appeal, the court found that the Forest Service determination that no ESA consultation was required was arbitrary and capricious, and that the district court did not abuse its discretion by enjoining the States Petition Rule and reinstating the Roadless Rule.
- U.S. Court of Appeals for the Ninth Circuit. Case No.: 07-15613; August 5, 2009.



NEPA Contracting Updates

The contracting page of the DOE NEPA Website (www.gc.energy.gov/nepa) has been updated to reflect the reassignment of contract administration from the National Nuclear Security Administration (NNSA) Service Center to the NNSA Headquarters’ Office of Procurement Operations. A notable addition to the web page is a link to the Contractor Performance Assessment Reporting System (CPARS), used by DOE to evaluate contractor performance on each task issued under the DOE-wide NEPA contracts. The web page also contains the statement of work for the contracts issued in the spring of 2009, contact information for the seven program managers of the contracts, and as background, DOE *NEPA Contracting Reform Guidance* issued in 1996.

The following tasks were awarded recently. For additional information, contact Aneesah Vaughn, Contract Specialist, at aneesah.vaughn@nnsa.doe.gov or 202-586-1815.

| Description | DOE Contact | Date Awarded | Contract Team |
|---|--|--------------|----------------------------|
| EAs for Advanced Battery Area of Interest 1: Cell and Battery Manufacturing Facilities (Recovery Act project) | Pierina Fayish 412-386-5428 pierina.fayish@netl.doe.gov | 9/29/2009 | JAD Environmental |
| EAs for Advanced Battery Area of Interest 2: Supplier Manufacturing Facilities (Recovery Act project) | Pierina Fayish 412-386-5428 pierina.fayish@netl.doe.gov | 9/29/2009 | Potomac-Hudson Engineering |

Training Opportunities

NEPA-related courses are listed in the Lessons Learned Quarterly Report for information only, without endorsement. Cost and schedule information are subject to change; check with the course provider.

- American Law Institute and American Bar Association
800-253-6397
www.ali-aba.org
Environmental Impact Assessment: NEPA and Related Requirements
Washington, DC: December 9-11
\$1,149 (\$949 webcast)
(course reference code CR009)
- Continuing Legal Education
800-873-7130
www.cle.com
NEPA: Climate Change, Cumulative Impacts and Compliance
Portland, OR: December 10-11
\$695
San Francisco, CA: January 21-22
\$795
- International Association for Public Participation
703-837-1197
iap2training@theperspectivesgroup.com
www.iap2.org
Planning for Effective Public Participation
Washington, DC: December 7-8
St. Paul, MN: December 17-18
\$700
Emotion, Outrage, and Public Participation
Portland, OR: December 7-8
Las Vegas, NV: February 4-5
Tucson, Arizona: March 18-19
Washington, DC: April 8-9
\$700
Communications for Effective Public Participation
Washington, DC: December 9
St. Paul, MN: January 6
\$350
Techniques for Effective Public Participation
Washington, DC: December 10-11
St. Paul, MN: January 7-8
\$700
- Nicholas School of the Environment and Earth Sciences, Duke University
919-613-8082
del@nicholas.duke.edu
www.env.duke.edu/del/continuinged/courses.html
Preparing and Documenting Environmental Impact Analyses
Durham, NC: February 17-19
\$925
Considering Greenhouse Gas Emissions and Climate Change under NEPA
Durham, NC: March 3-5
\$800
Implementation of NEPA
Durham, NC: March 15-19
\$1250
Scoping, Public Involvement and Environmental Justice
Durham, NC: March 29-31
\$925
Certificate in the National Environmental Policy Act
Requires successful completion of one core and three elective Duke University NEPA short courses. Co-sponsored by the Council on Environmental Quality.
Fee: Included in course registration.
- Northwest Environmental Training Center
206-762-1976
info@nwetc.org
www.nwetc.org
NEPA: Writing the Perfect EA/FONSI or EIS
Seattle, WA: February 3-4
Houston, TX: April 21-22
Atlanta, GA: April 26-27
\$495 (\$395 for Federal employees)
- The Shipley Group
888-270-2157 or 801-298-7800
shipley@shipleygroup.com
www.shipleygroup.com
Reviewing NEPA Documents
St. Louis, MO: December 7-9
\$985 (GSA contract: \$895)

(continued on next page)

Training Opportunities

(continued from previous page)

Reviewing NEPA Documents and Effective Environmental Contracting

St. Louis, MO: December 7-11
\$1385 (GSA contract: \$1295)

Core Principles: Telling the NEPA Story, Keeping Documents Brief, Meeting Legal Requirements

Salt Lake City, UT: December 8-9
New Orleans, LA: January 20-22
\$945 (GSA contract: \$855) until 12/2/09

Applying the NEPA Process and Writing Effective NEPA Documents

Denver, CO: January 12-15
Nashville, TN: April 13-16
\$1,185 (GSA contract: \$1,095)

NEPA Climate Change Analysis and Documentation and NEPA Cumulative Effects Analysis and Documentation

San Francisco, CA: January 26-29
\$1,145 (GSA contract: \$1,055) until 12/15/09

Applying the NEPA Process: Emphasis on Native American Issues

Las Vegas, NV: February 3-5
\$945 (GSA contract: \$855) until 12/23/09

Overview of the NEPA Process and Overview of the Endangered Species Act and Overview of the National Historic Preservation Act /Section 106

Nashville, TN: February 17-19
\$945 (GSA contract: \$855) until 1/13/10

Overview of the NEPA Process and Managing NEPA Projects and Teams

San Francisco, CA: March 2-5
\$1145 (GSA contract: \$1055) until 1/26/10

Clear Writing for NEPA Specialists

San Antonio, TX: March 9-11
\$945 (GSA contract: \$855) until 2/10/10

Collaboration in the NEPA Process

Salt Lake City, UT: April 8-9
\$745 (GSA contract: \$655) until 2/25/10

NEPA Certificate Program

Requires successful completion of four core and three elective courses, and a capstone course offered by The Shipley Group.

\$5,450

Contact: Natural Resources and Environmental Policy Program, Utah State University; 435-797-0922; judy.kurtzman@usu.edu; www.cnr.usu.edu/htm/students/grad-degrees/nepa/

- SWCA Environmental Consultants
800-828-7991
training@swca.com
www.swca.com/training

The Cultural Side of NEPA: Addressing Cultural Resources in NEPA Analysis

Austin, TX: April 26-27
\$695

Customized NEPA Training

- Environmental Impact Training
512-963-1962
info@eiatraining.com
www.eiatraining.com
- Environmental Planning Strategies, Inc.
563-332-6870
jleeeeps@mchsi.com
www.jlee-eps.com/workshops.php
- Environmental Training & Consulting International Inc.
503-274-1790
info@envirotrain.com
www.envirotrain.com
- ICF Jones & Stokes
916-737-3000
www.jonesandstokes.com
- International Institute for Indigenous Resource Management
303-733-0481
iiirm@iiirm.org
www.iiirm.org

EAs and EISs Completed¹ July 1 to September 30, 2009

EAs²

Berkeley Site Office/Office of Science

[DOE/EA-1655](#) (9/4/09)

The Berkeley Lab Laser Accelerator (BELLA) Laser Acquisition, Installation and Use for Research and Development, Berkeley, California

Cost: \$70,000

Time: 6 months

Chicago Operations Office/Office of Science

[DOE/EA-1659](#) (8/11/09)

Proposed Demolition of Building 330 at Argonne National Laboratory, Argonne, Illinois

Cost: \$60,000

Time: 5 months

Office of the Chief Financial Officer

[DOE/EA-1645](#) (7/1/09)

Loan Guarantee for Sage Electrochromics SageGlass® High Volume Manufacturing (HVM) Facility in Faribault, Minnesota

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

Time: 7 months

Office of Energy Efficiency and Renewable Energy

[DOE/EA-1673](#) (7/22/09)

Energy Conservation Program: Energy Conservation Standards and Test Procedures for Commercial Heating, Air-Conditioning, and Water-Heating Equipment, Washington, DC

Cost: \$13,500

Time: 5 months

[DOE/EA-1674](#) (8/5/09)

Energy Conservation Program: Energy Conservation Standards for Refrigerated Bottled or Canned Beverage Vending Machines, Washington, DC

Cost: \$50,000

Time: 6 months

Golden Field Office/Office of Energy Efficiency and Renewable Energy

[DOE/EA-1584](#) (9/15/09, FONSI 9/16/09)

Sandpoint Wind Installation Project, Sand Point, Alaska

Cost: \$28,000

Time: 46 months

[DOE/EA-1652](#) (7/30/09)

Wind Technology Testing Center,

Boston, Massachusetts

Cost: \$47,000

Time: 22 months

National Energy Technology Laboratory/Office of Fossil Energy

[DOE/EA-1642](#) (8/12/09)

Design and Construction of an Early Lead Mini Fischer-Tropsch Refinery at the University of Kentucky Center for Applied Energy Research, Lexington, Kentucky

Cost: \$22,000

Time: 10 months

Richland Operations Office/Office of Environmental Management

[DOE/EA-1660](#) (7/20/09)

Combined Community Communications Facility and Infrastructure Cleanup on the Fitzner/Eberhardt Arid Lands Ecology Reserve, Hanford Site, Richland, Washington

Cost: \$219,000

Time: 5 months

Western Area Power Administration

[DOE/EA-1689](#) (8/14/09, FONSI 8/17/09)

Prairie Winds ND-1 Wind Generation Project near Minot, North Dakota

EA was adopted; therefore cost and time data are not applicable. [Rural Utilities Service was the lead agency; Western was a cooperating agency.]

EISs

There were no EISs completed during this quarter.

¹ For online readers the blue text indicates a link to the document.

² EA and FONSI issuance are the same date except as marked.

My Exploration of NEPAassist

If a NEPA practitioner is prepared by gathering location, scoping, and other project-specific information before using NEPAassist, he or she can use this tool to facilitate timely, efficient NEPA document preparation and review. This is a trip that I will take again, soon and often.

(continued from page 10)

For additional information on my experience with NEPAassist, contact me at juliea.smith@hq.doe.gov or 202-586-7668. For direct inquiries or to apply for a password to NEPAassist, contact Aimee Hessert, EPA Office of Federal Activities, at hessert.aimee@epa.gov or 202-564-0993. 

NEPA Document Cost and Time Facts

EA Cost and Completion Times

- For this quarter, the median cost for the preparation of 8 EAs for which cost data were applicable was \$49,000; the average cost was \$64,000.
- Cumulatively, for the 12 months that ended September 30, 2009, the median cost for the preparation of 23 EAs for which cost data were applicable was \$50,000; the average was \$85,000.
- For this quarter, the mean completion time for 9 EAs for which time data were applicable was 6 months; the average was 12 months.
- Cumulatively, for the 12 months that ended September 30, 2009, the median completion time for 33 EAs was 7 months; the average was 14 months.

EIS Cost and Completion Times

- For this quarter, there were no EISs completed.
- Cumulatively, for the 12 months that ended September 30, 2009, the median cost for the preparation of 3 EISs for which cost data were applicable was \$2.20 million; the average cost was \$2.22 million.
- Cumulatively, for the 12 months that ended September 30, 2009, the median completion time for 5 EISs was 30 months; the average was 31 months.

Recent EIS-Related Milestones¹ (September 1 to November 30, 2009)

Notices of Intent

Bonneville Power Administration

DOE/EIS-0436
I-5 Corridor Reinforcement Project,
Cowlitz and Clark Counties, Washington,
and Multnomah County, Oregon
October 2009 ([74 FR 52482](#), 10/13/09)

Office of Chief Financial Officer

DOE/EIS-0428
*Loan Guarantee for the Mississippi
Gasification, LLC, Industrial Gasification
Facility*, Moss Point, Mississippi
November 2009 ([74 FR 58262](#), 11/12/09)

DOE/EIS-0429
*Loan Guarantee for the Indiana
Gasification, LLC, Industrial Gasification
Facility*, Rockport, Indiana
November 2009 ([74 FR 58265](#), 11/12/09)

DOE/EIS-0430
*Loan Guarantee for Construction and Start-up
of the Taylorville Energy Center*, Taylorville, Illinois
October 2009 ([FR 74 52228](#), 10/09/09)

DOE/EIS-0432
*Loan Guarantee for the Medicine Bow Fuel
and Power Coal-to-Liquid Facility*, Carbon
County, Wyoming
November 2009 ([74 FR 62290](#), 11/27/09)

Western Area Power Administration

DOE/EIS-0434
*Interconnection of the Hualapai Valley
Solar Project*, Mohave County, Arizona
September 2009 ([74 FR 47245](#), 9/15/09)

DOE/EIS-0435
*Modification of the Groton Generation
Station Interconnection Agreement*,
Brown County, South Dakota
September 2009 ([74 FR 48067](#), 9/21/09)

DOE/EIS-0437
*Interconnection of the Buffalo Ridge III
Wind Project*, Brookings and Deuel
Counties, South Dakota
November 2009 ([74 FR 62998](#), 11/27/09)

(continued on next page)

¹ For online readers the blue text indicates a link to the document.

Recent EIS-Related Milestones (continued from previous page)

Notice of Cancellation

Western Area Power Administration
DOE/EIS-0411
Construction, Operation, and Maintenance of the Proposed Transmission Agency of Northern California Transmission Project, California
September 2009 ([74 FR 46584](#), 9/10/09)

Draft EISs

Office of Energy Efficiency and Renewable Energy/Golden Field Office
DOE/EIS-0407
Abengoa Biorefinery Project near Hugoton, Stevens County, Kansas
September 2009 ([74 FR 48951](#), 9/25/09)

Office of Environmental Management/ Office of River Protection
DOE/EIS-0391
Tank Closure and Waste Management Environmental Impact Statement for the Hanford Site, Richland, Washington
October 2009 ([74 FR 56194](#), 10/30/09)

Office of Fossil Energy/National Energy Technology Laboratory
DOE/EIS-0409
Kemper County Integrated Gasification Combined-Cycle (IGCC) Project, Kemper County, Mississippi
November 2009 ([74 FR 57467](#), 11/6/09)

National Nuclear Security Administration/Y-12 Site Office
DOE/EIS-0387
Site-wide Environmental Impact Statement for the Y-12 National Security Complex, Oak Ridge, Tennessee
October 2009 ([74 FR 56195](#), 10/30/09)

Final EIS

Bonneville Power Administration
DOE/EIS-0384
Chief Joseph Hatchery Program, Washington
November 2009 ([74 FR 62305](#), 11/27/09)

Office of Fossil Energy/ National Energy Technology Laboratory
DOE/EIS-0382
Mesaba Energy Project Final Environmental Impact Statement, Itasca County, Minnesota
November 2009 ([74 FR 60260](#), 11/20/09)

Records of Decision

Bonneville Power Administration
DOE/EIS-0183
Electrical Interconnection of the Kittitas Valley Wind Project, Kittitas County, Washington
September 2009 ([74 FR 47570](#), 9/16/09)

DOE/EIS-0312
Washington-Action Agency Estuary Habitat Memorandum of Agreement, Washington
September 2009 ([74 FR 48530](#), 9/23/09)

Western Area Power Administration
DOE/EIS-0399
Montana Alberta Tie, Ltd. (MATL) 230-kV Transmission Line, Great Falls, Montana
September 2009 ([74 FR 48947](#), 9/25/09)

Supplement Analyses

Bonneville Power Administration
Fish and Wildlife Implementation Plan
(DOE/EIS-0312)
[DOE/EIS-0312/SA-03](#)
Supplement Analysis for the Fish and Wildlife Implementation Plan, Washington
(Decision: No further NEPA review required)
October 2009

Transmission System Vegetation Management Program
(DOE/EIS-0285)
DOE/EIS-0285/SA-404
Vegetation Management along the Wautoma-Ostrander Transmission Line Corridor, Washington
(Decision: No further NEPA review required)
October 2009

DOE/EIS-0285/SA-405
Vegetation Management along the Keeler-Allston Transmission Line Corridor, Washington and Oregon
(Decision: No further NEPA review required)
October 2009

DOE/EIS-0285/SA-406
Vegetation Management along the Trojan-Allston Transmission Line Corridor, Oregon
(Decision: No further NEPA review required)
November 2009

(continued on page 24)

*Not previously reported in LLQR

Questionnaire Results

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.

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 NEPA Policy and Compliance.

Scoping

What Worked

- *Bounding assumptions.* During the internal scoping meeting, we agreed to use broad, bounding assumptions in the EA, which provided the necessary technical flexibility to execute the project.

Data Collection/Analysis

What Worked

- *Collaboration and use of standard research tools.* Related data were collected through collaboration with other affected parties, while additional information was generated during the ecological and cultural review process. Historical data were collected using standard research tools.
- *Good communication.* The contractor maintained good communication with the project manager during the collection of characterization data.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Tribal/local government interaction.* Interaction with the tribal government and local governments was very useful. Weekly meetings with an integrated project team were held to discuss project activities and schedule. Comments on the EA were consolidated at a single meeting with a document editor sitting at a computer to make changes in real time. Tribal workshops were held to help facilitate comment resolutions during the review process.
- *Competent contractors.* The EA was completed on schedule due in large part to the help of competent and responsive contractors.

- *Consolidation of review periods.* By sequencing the National Historic Preservation Act Section 106 reviews with the state 30-day review and the public comment period 15-day review, we were able to align the EA with the proposed project schedule.
- *Coordinated review process.* The coordination of the issue resolution and EA approval timelines with Headquarters legal review staff allowed completion of the EA on schedule.
- *Efficient scheduling.* A schedule was developed and used to track all EA-related documentation and review activities.
- *Efficient troubleshooting.* The EA document manager recognized issues quickly and resolved them in a timely manner.
- *Open communication.* Maintaining open communication between the contractor, project manager, and the EA review team facilitated punctual assignment completion.

Factors that Inhibited Timely Completion of Documents

- *Comment volume.* We received more public comments than expected on the draft EA, requiring more time than anticipated to address comments.
- *Geographical location.* The project was located in a traditional cultural property area that required substantial interaction with the tribes. The project location was on a mountain and weather was a factor in completing the necessary ecological reviews. Additional time, not previously considered in the EA schedule, was needed to complete these reviews.
- *Iterative review process.* EA completion was slowed partially by a lengthy, iterative Headquarters legal staff review process that required ongoing analysis and editing of several suggested, but non-required, elements.

(continued on next page)

What Worked and Didn't Work (continued from previous page)

Teamwork

Factors that Facilitated Effective Teamwork

- *Contractor efficiency.* The EA preparation contractor selected by the applicant was very knowledgeable, quick, and responsive.
- *Defined scope of work.* The scope of work provided by the contractor was well defined and the contractor was fully integrated within DOE's project team.
- *Integrated project team meetings.* Weekly meetings were attended by the integrated project team, including the affected parties and subject matter experts from DOE and the contractor.
- *Managed review schedule.* The EA document manager ensured that the review and issue resolution schedule for the draft EA was met.
- *Open communication.* Communication was the key to good teamwork between DOE and the contractor.
- *Resource expertise.* The integration of resource experts from the internal team helped to facilitate effective preparation of the EA.

Process

Successful Aspects of the Public Participation Process

- *Local contact.* A local point of contact made the public participation process smooth, with comments returned in a timely manner.
- *Prompt agency response.* Comments from the Illinois Environmental Protection Agency on the draft EA were prompt and responsive.
- *Public process streamlined.* Soliciting comments via email with an attached pdf file of the EA streamlined the public process. Hard copies were provided at public information repositories. Workshops were held with tribal staff to facilitate comment resolutions.

Unsuccessful Aspects of the Public Participation Process

- *Timing.* The public requested more time to comment as well as access to the preparers of the EA. The additional time needed had not been considered in our schedule.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *Applicant NEPA awareness.* The NEPA process was the impetus for the applicant's full consideration of the environmental consequences of its proposal.
- *Early coordination.* Early coordination with the applicant ensured that an environmentally benign site was selected. The alternative sites were considered during the NEPA process and it was concluded that there was no significant impact at the selected site.
- *Impact analysis approach.* The EA established conservative environmental assumptions, ensuring the execution of the project would be within the established environmental boundaries.
- *Memorandum of Agreement (MOA).* Obtaining an MOA with the state Historic Preservation Office was helpful. The MOA facilitated an agreement towards the protection of cultural resources and a means to maintain tribal relationships for future interactions.
- *Sustainable planning.* The NEPA process identified certain locations where additional tribal interactions were needed to maintain culturally significant areas that were vital to project completion. It identified the necessary controls to limit ecological and cultural impacts, and facilitated necessary interface protocols that allowed cleanup activities to take place.

Agency Planning and Decisionmaking: What Didn't Work

- *Project scope.* Because this project was for research and development to test a concept, there were really no action alternatives to consider.

Enhancement/Protection of the Environment

- *Public awareness provided.* Although the NEPA process did not enhance the environment, the public was better informed about the environmental impacts of the project because of it.
- *Restoring natural settings.* The NEPA process assisted in the removal of man-made structures and restoring the property to a natural setting.

(continued on next page)

Questionnaire Results

What Worked and Didn't Work *(continued from previous page)*

- *Site selection.* The environment was protected because the importance of timely NEPA completion was emphasized early in the process, which encouraged the applicant to choose an environmentally favorable site adjacent to its existing facility.
- A respondent who rated the process as “5” stated that the NEPA process facilitated a clear understanding of environmental settings and acted as a catalyst for interactions that provided a better understanding of tribal and community values.
- A respondent who rated the process as “4” stated that NEPA was used as an important planning tool in identifying environmental aspects and impacts in accordance with the requirement of the site Environmental Management System.
- A respondent who rated the process as “3” stated that the applicant took action in the design of the facility to minimize potential environmental impacts and to demonstrate environmental stewardship. This allowed the rest of the team to feel confident in moving the project forward.
- A respondent who rated the process as “2” stated that the NEPA process was not effective because, for this research and development project within an existing building, there were no action alternatives to consider.

Other Issues

Guidance Needs Identified

- *Program NEPA guidance.* An office management system for EA preparation is needed.

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 decision making.

For the past quarter, in which 4 questionnaire responses were received for EAs, 3 out of 4 respondents rated the NEPA process as “effective.”

Recent EIS-Related Milestones *(continued from page 21)*

(Supplement Analyses, continued)

DOE/EIS-0285/SA-407

Vegetation Management along the Allston-Astoria Transmission Line Corridor, Washington and Oregon
(Decision: No further NEPA review required)
November 2009

**Office of Environmental Management/
Savannah River Operations Office**

Interim Management of Nuclear Materials
(DOE/EIS-0220)

[DOE/EIS-0220/SA-01](#)

Supplement Analysis, Interim Management of Nuclear Materials Final Environmental Impact Statement, South Carolina
(Decision: No further NEPA review required)
September 2009

Office of Fossil Energy/Strategic Petroleum Reserve Program Management Office

Strategic Petroleum Reserve Phase III Development, Texoma and Seaway Group Salt Domes (West Hackberry and Bryan Mound Expansion, Big Hill Development)
(DOE/EIS-0075)

DOE/EIS-0075/SA-02

Supplement Analysis of Site-Specific and Programmatic Environmental Impact Statements: Operational and Engineering Modifications and Regulatory Review
(Decision: No further NEPA review required)
September 2009