



U.S. Department of Energy
Office of Inspector General
Office of Audit Services

Audit Report

Management Controls over the National Environmental Policy Act Decisions at the Idaho Operations Office

OAS-M-05-08

August 2005



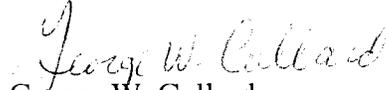
Department of Energy

Washington, DC 20585

August 11, 2005

MEMORANDUM FOR THE MANAGER, IDAHO OPERATIONS OFFICE

FROM:


George W. Collard
Assistant Inspector General
for Performance Audits
Office of Inspector General

SUBJECT:

INFORMATION: Audit Report on "Management Controls over the National Environmental Policy Act Decisions at the Idaho Operations Office"

INTRODUCTION AND OBJECTIVE

In 1969, Congress enacted the National Environmental Policy Act (NEPA), which required all agencies of the Federal Government to utilize a systematic, interdisciplinary approach in planning and decision making of major operations that may have an impact on the environment. NEPA also established the Council on Environmental Quality (Council) that prescribes regulations for Federal agencies to follow in implementing NEPA.

The Department of Energy's NEPA regulations [10 CFR 1021] require full and open assessment and disclosure about the environmental impacts of its proposed actions. In a Draft Environmental Impact Statement (EIS), the Department is required to identify, describe, and evaluate the environmental impacts of the range of reasonable alternatives that can accomplish the agency's objectives. The Department must also obtain stakeholder comments on the Draft EIS. The Final EIS responds to public comments and identifies a preferred alternative. Further, the Final EIS must present the environmental impacts of the proposal and alternatives in comparative form, thus sharply defining issues and providing a clear basis for choice among options by the decision maker and the public. Subsequently, the agency will issue a Record of Decision, formally announcing the agency's path forward. We initiated this audit to determine whether the Idaho Operations Office (Office) has complied with NEPA in evaluating its approach to treating high-level waste and facilities disposition at the Idaho Site.

CONCLUSIONS AND OBSERVATIONS

The Office complied with NEPA in evaluating how to treat high-level waste and dispose of related facilities. Specifically, the Office followed guidance provided by the Council in implementing a NEPA strategy that required additional work and more public involvement than normally required by the traditional EIS process described above. In 2002, the Department issued the *Idaho High Level Waste and Facilities Disposition* Final EIS, which evaluated six



alternative approaches for treating the high-level waste at the Idaho Site. The Final EIS identified the Department's preferred alternative as follows: "DOE's preferred waste processing alternative is to implement the proposed action by selecting from among the action alternatives, options and technologies analyzed in this EIS [based on the criteria discussed below] ... The selection of any one of, or combination of, technologies or options used to implement the proposed action would be based on performance criteria that include risk, cost, time, and compliance factors." Subsequently, contractors were asked to bid on the cleanup work and propose specific technologies.

The Council's Associate Director for NEPA Oversight, "agreed that DOE's preferred alternative and phased decision making do meet the objectives of NEPA so long as DOE provides opportunities for public input when evaluating alternative technologies and the environmental impact of those technologies remains within the range of impacts analyzed in the Final EIS." Consistent with the Council's comments, the Department held a series of public meetings with interested stakeholders on the six alternative approaches to treating sodium-bearing waste. However, these meetings could not focus on the preferred technology because, under the Department's strategy, the preferred technology was to be identified after the competitive procurement process.

In March 2005, the Department selected CH2M-WG Idaho, LLC (CWI) to manage the environmental cleanup at the Idaho Site. CWI has proposed a specific steam reforming technology to treat the site's sodium bearing waste. A decision on CWI's proposed technology will not be made until the Department issues a Record of Decision. Current plans are to identify the preferred technology in a Federal Register notice where the public will have 30 days to respond, and then the Department will issue the Record of Decision.

The public had an opportunity to comment on steam reforming and the other technologies, which were fully analyzed in the Final EIS. However, the public has not been able to comment on the selection of steam reforming as the preferred alternative. Accordingly, in keeping with the Council's guidance that the public have opportunities to provide input on alternative technologies, we offer the following recommendations.

RECOMMENDATIONS

We recommend that the Manager, Idaho Operations Office, ensure that the Department's Federal Register notice clearly:

1. Describe the basis for preferring the proposed technology over alternative technologies;
2. Explain how the impacts of the proposed technology are within the range of impacts assessed in the Final EIS; and,
3. Request stakeholder comments on the preferred alternative and state that this information will be considered prior to issuance of the Record of Decision.

This will allow the stakeholders the opportunity to provide additional input on the preferred alternative and meet the Council's requirements. Subsequently, the Department will be able to consider this information prior to issuance of the Record of Decision.

MANAGEMENT REACTION

The Idaho Operations Office concurred with all three recommendations. The Office is preparing a Federal Register Notice containing language that indicates what the Department has considered when identifying its preferred Sodium Bearing Waste treatment technology. The Federal Register Notice will reference the June 2005 Supplement Analysis (SA) to the Final EIS. The SA will be publicly available. It concludes that the impacts of the Department's preferred technology are adequately represented by the information presented in the Final EIS. Further, the Department will include language in the Federal Register Notice indicating where to send comments and that they will be considered before the Department issues a Record of Decision. Management's verbatim comments are attached.

SCOPE AND METHODOLOGY

The audit was performed from July 8, 2004, through May 26, 2005, at the Department's Idaho Operations Office in Idaho Falls, Idaho. The audit scope was limited to NEPA activities at the Idaho Operations Office since 1997. To accomplish the audit, we obtained and reviewed NEPA planning documents which included categorical exclusions, environmental assessments, and environmental impact statements; researched Council and Departmental regulations; reviewed findings from prior audit reports; assessed internal controls and performance measures established under the Government Performance and Results Act of 1993; and, interviewed key personnel in the Idaho Operations Office.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not have necessarily disclosed all internal control deficiencies that may have existed at the time of our audit. Also, since we did not rely upon automated data processing equipment to accomplish our audit objective, we did not conduct an assessment of the reliability of computer processed data. We held an exit conference with Idaho Operations Office; Office of Environmental Management; and Office of Environment, Safety and Health personnel on June 15, 2005.

We appreciate the cooperation of your staff as well as the staff at the Idaho Operations Office during our review.

Attachment

Management Comments

United States Government

Department of Energy

memorandum

Idaho Operations Office

Date: July 25, 2005

Subject: Idaho Operations Office Comments to Draft Office of Inspector General (OIG) Audit Report A04ID006, titled: "National Environmental Policy Act Decisions at the Idaho Operations Office" (AS-RMD-FS-05-040)

To: George W. Collard, Assistant Inspector General for Audit Services
Office of Inspector General
DOE-HQ, IG-32/FORS

We have reviewed the subject draft report attached to IG-30 memorandum of July 7, 2005. We concur in the three recommendations, and are taking appropriate action as indicated in our attached comments.

In addition, the Department believes that it has fully complied with all Department of Energy and Council on Environmental Quality regulations implementing the National Environmental Policy Act. The Department therefore requests that the Office of the Inspector General remove the word "generally" from the first sentence in the Conclusions and Observations section of the audit report.

If you have questions or would like additional information, please contact Nicolas Nicolayeff, Audit Liaison, on (208) 526-0172.



Paul B. Keele, Acting Assistant Manager
Administration Services

Attachment

**DOE Idaho Operations Office's Comments to
Draft Office of Inspector General (OIG) Audit Report A04ID006
"National Environmental Policy Act Decisions at the Idaho Operations Office"**

Recommendation 1: That the Manager, Idaho Operations Office (DOE-ID), ensure that the Department's Federal Register Notice clearly describe the basis for preferring the proposed technology over alternative technologies.

Management Comments:

Concur. DOE-ID is preparing a Federal Register Notice containing language that indicates what the Department has considered when identifying its preferred Sodium Bearing Waste treatment technology. The language is similar to that found in the preferred alternative discussion in the Final Idaho High-Level Waste and Facilities Disposition Environmental Impact Statement (Final EIS) Summary.

Recommendation 2: That the Manager, Idaho Operations Office, ensure that the Department's Federal Register Notice clearly explain how the impacts of the proposed technology are within the range of impacts assessed in the Final EIS.

Management Comments:

Concur. The Federal Register Notice will reference the June 2005 Supplement Analysis (SA) to the Final EIS. The SA will be publicly available. It concludes that the impacts of the Department's preferred technology are adequately represented by the information presented in the Final EIS. Because the SA contains data and analysis supporting this conclusion, the Federal Register Notice will not provide details, but will indicate that the impacts of the preferred technology are within the range of impacts assessed in the Final EIS.

Recommendation 3: That the Manager, Idaho Operations Office, ensure that the Department's Federal Register Notice clearly request stakeholder comments on the preferred alternative and state that this information will be considered prior to issuance of the Record of Decision.

Management Comments:

Concur. Although not required by NEPA regulations, the Department will include language in the Federal Register Notice indicating where to send comments and that they will be considered before DOE issues a Record of Decision.

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