NEPA

National Environmental Policy Act

LESSONS LEARNED

U.S. DEPARTMENT OF ENERGY QUARTERLY REPORT

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"Open House" Format for Scoping Meetings Provides DOE Valuable Input for Yucca Rail EIS

By: Eric Cohen, *Unit Leader, Office of NEPA Policy and Compliance*

The recent scoping meetings for the Yucca Mountain Rail Alignment Environmental Impact Statement (EIS), using an "open house" format rather than more formal presentations, provided valuable information to the Department regarding issues of concern to the public. More than 300 persons who participated in the scoping meetings had the opportunity to engage in one-on-one dialogue with DOE representatives, discussing concerns and receiving answers to their questions. Individuals were also able to provide oral comments to a court reporter for the record.

"An open and collaborative planning process is essential to developing a safe, secure, and environmentally sound system for transporting the nation's spent nuclear fuel and high-level waste to a repository at Yucca Mountain," observed Gary Lanthrum, Director of National Transportation, Office of Civilian Radioactive Waste Management. With this principle in mind, Robin Sweeney, Document Manager for the Repository Rail Alignment EIS, led a DOE team in conducting five "open houses" during May in Amargosa Valley, Goldfield, Caliente, Reno, and Las Vegas, Nevada.

This approach was well received by many members of the public. However, some participants, including the State of Nevada, were concerned that they were unable to hear the comments of others. The State asked that all comments received by DOE during the scoping process be transcribed and made available to the public. DOE will address this concern by making transcripts of the oral comments publicly available on the Internet.

Two-Way Communication Benefits DOE

The "open house" format enabled members of the public to talk with DOE program officials and technical experts and receive answers to their questions. In turn, DOE obtained specific information about the concerns of people potentially affected by the proposed approximately 319-mile rail line from Caliente to Yucca Mountain. (The actual length may differ depending on route variations being considered.) DOE needs public comments to help it evaluate alternative alignments and explore ways to mitigate potential impacts, such as by making adjustments to avoid or minimize land use conflicts or sensitive resources.

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In the open meeting format, people could speak one-on-one with DOE technical experts to express views and get answers to their questions.

DOE NEPA Community Meeting Set for July 20-21 (page 2)

Inside *LESSONS LEARNED*

Welcome to the 39th quarterly report on lessons learned in the NEPA process. In this issue we are continuing a multi-part examination of lessons learned from *Lessons Learned*. We invite your suggestions on how to improve the Lessons Learned program. Thank you for your continuing support.

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Carol Borgstrom
Director
Office of NEPA Policy and Compliance

Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions, comments, and contributed drafts for the *Lessons Learned Quarterly Report.* We especially seek case studies illustrating successful NEPA practices. Draft articles for the next issue are requested by August 2, 2004. Contact Yardena Mansoor at yardena.mansoor@eh.doe.gov or 202-586-9326.

Quarterly Questionnaires Due August 2, 2004

Lessons Learned Questionnaires for NEPA documents completed during the third quarter of fiscal year 2004 (April 1 through June 30, 2004) should be submitted by August 2, but preferably as soon as possible after document completion. The Questionnaire is available interactively on the DOE NEPA Web site at *www.eh.doe.gov/nepa/* under Lessons Learned Quarterly Reports. For Questionnaire issues, contact Vivian Bowie at vivian.bowie@eh.doe.gov or 202-586-1771.

LLQR Online

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

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July NEPA Community Meeting: Getting Better and Better

The Office of NEPA Policy and Compliance will host a DOE NEPA Community Meeting on July 20 and 21 in Washington, DC, and telecast it to 19 DOE Field locations. The theme for the meeting – *Getting Better and Better* – focuses on noteworthy activity in the Department's NEPA program as we aim to make it more efficient and supportive of good decisionmaking.

To help us explore how to improve the DOE NEPA program, Robert Middleton, Director of the White House Task Force on Energy Project Streamlining, will give us his perspective on "What Can We Do Better?" Horst Greczmiel, Council on Environmental Quality (CEQ) Associate Director for NEPA Oversight, will address "What's New/What's Next at CEQ."

The agenda also features three new draft DOE NEPA guidance documents – an updated and augmented "Green Book" (*Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements*) (*LLQR*, March 2004, page 1), and guidance on supplement analyses and on responding to comments on a draft EIS. Other topics will be case studies of recent DOE NEPA reviews, and presentations from the Bureau of Land Management and National Park Service on experiences in applying e-government approaches to the NEPA process.

Attendance at the Forrestal Auditorium will allow participants the best opportunity for discussion with guest speakers, the Office of NEPA Policy and Compliance staff, and other NEPA colleagues. But recognizing that not all participants will be able to travel, this will be the second DOE NEPA meeting to offer the option of participating through videoconferencing. To accommodate four time zones, a six-hour session is planned for each day. NEPA Compliance Officers will coordinate participation planning for their Office's staff and contractors. Registration procedures for Headquarters attendance and Field videoconference sites will be announced in early June.

The NEPA Office welcomes suggestions for additional meeting topics and nominations for case study presentations. To provide suggestions or for additional information, contact Jim Sanderson at jim.sanderson@eh.doe.gov or 202-586-1402. LL

Yucca Mountain Rail Alignment EIS Scoping

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"DOE hopes the public will help the Department answer several key EIS questions, such as how the rail line should be routed, whether the line should be fenced, and whether the line should be dedicated solely for DOE's use rather than shared commercial use," Ms. Sweeney said. "I'm delighted that the scoping meetings have been so productive in providing DOE with specific comments that will help us answer these questions," she added.

How the "Open House" Format Worked

DOE invited the public to attend the meetings at their convenience any time during the meeting hours (4 to 8 p.m.), to engage in one-on-one discussions with DOE representatives, and to provide comments in writing or to a court reporter. There were no formal DOE presentations.

People in the local communities know these areas better than we do and are providing us a wealth of information we would not have otherwise found. I look forward to further collaborative communications throughout the EIS process.

– Robin Sweeney, Document Manager, Repository Rail Alignment EIS

At the meeting room entrance people were asked to sign in and indicate their preferences for receiving EIS-related information (e.g., paper copy or CD ROM format). A television monitor near the entrance played continuous-loop taped information about the rail line proposal and the importance of the public's comments in helping to define the scope of the Rail Alignment EIS. Inside the meeting room, DOE provided displays of maps, flow charts of the EIS process, colorful posters showing what is required to build a railroad, and another video providing information about areas along the route.

One of the more popular displays was a laptop-driven video projection of detailed maps of the proposed rail route. At this display people could zoom in on areas of interest, such as where the rail line might cross roads used to access their property or other land interest, or public lands that ranchers use for cattle grazing.

DOE representatives at the displays and throughout the meeting room engaged members of the public proactively, speaking with people one-on-one, answering questions,

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Maps, charts, posters, videos, and other displays stimulated discussion and provided different ways for people to get information.

Robin Sweeney (left), Document Manager, asks a clarifying question to understand a person's comments.

Some people are more comfortable expressing their comments to a court reporter, as shown above, rather than to the entire group.

Lessons Learned from *Lessons Learned* Part 3: Public Participation, Usefulness, and Environmental Protection

Effective public participation in the NEPA process is achieved by following the basic tenets of starting early, reaching out to all concerned, and being responsive to comments received. Effective public participation benefits the NEPA process, which in turn benefits DOE and the environment. Respondents to DOE's Lessons Learned Questionnaire have repeated these essential messages frequently over the past decade.

Good Communication Is Key

Questionnaire respondents identified many factors that contribute to successful public participation in the NEPA process. A common theme through many of the responses was that good communication with the public allows the NEPA process to progress in a smooth and efficient manner. The single most important factor identified is to communicate early and continually, often in an informal manner, such as through open houses and on-site meetings. Face-to-face meetings with external agencies, tribes, and members of the public often enhance the NEPA process. Closely working with states and other cooperating agencies (especially when conducting parallel reviews under NEPA and state law) to coordinate public meetings also is an effective way to engage the public and obtain meaningful input.

Notifying the public of proposed actions and holding public meetings are simply the first steps for effective public participation, respondents said. Communication must continue in order to sustain participation. Additionally, failure to address comments raised by local communities can create just as many problems as not involving the public in the first place. It is very important to understand the significance of a proposed action to the public.

Respondents reported varying degrees of success with meeting formats, citing a desire among the public for more interaction and less rigidness while also noting the importance of accurately capturing public comments. "Effective Public Participation under the National Environmental Policy Act, Second Edition" provides guidance on the implementation of public participation as a fundamental component of the NEPA process. This document is available on DOE's NEPA Web site (*www.eh.doe.gov/nepa*) under Guidance.

This article is the third of a series examining nearly 1,000 excerpts from responses to DOE's NEPA Lessons Learned Questionnaire published in *LLQR* since December 1994. The excerpts are published on the concluding pages of each issue of *LLQR* under the heading: *What Worked and Didn't Work in the NEPA Process*. (See page 23.) The Lessons Learned Questionnaire is available on DOE's NEPA Web site at *www.eh.doe.gov/nepa* under Lessons Learned Quarterly Reports.

The first two articles discussed scoping and data collection and analysis (*LLQR*, December 2003, page 1) and schedule and teamwork (*LLQR*, March 2004, page 6). This article summarizes responses regarding the NEPA participation process, usefulness, and enhancement/protection of the environment. The series will conclude in the September 2004 issue of *LLQR* with thoughts on how to improve the NEPA lessons learned program and DOE's implementation of NEPA.

Fostering Better, Informed Decisions

Respondents provided examples of how the NEPA process has been useful to DOE, including enhancing awareness of environmental aspects of proposed projects, improving siting decisions, and identifying and helping solve discrete problems (e.g., waste management needs associated with a decontamination and decommissioning project). Overall, respondents indicated that the NEPA process regularly leads to better, informed decisionmaking.

In some instances, however, respondents indicated that the NEPA process was not effective. The most common reason identified was a perception that a decision had been predetermined. This was sometimes attributed to competing drivers, such as environmental remediation decisionmaking or programmatic requirements. In other cases, respondents reported that a decision was made based on political pressure or technical considerations, following which, as one respondent described it, the "NEPA paperwork" was completed. Other factors adversely affecting the usefulness of the NEPA process include inadequate funding for NEPA document preparation, difficulty coordinating closely-related NEPA documents, and failure to adequately define alternatives.

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Lessons Learned from *Lessons Learned*

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NEPA Process Protects the Environment

Questionnaire respondents identified many examples of the NEPA process helping protect the environment. Respondents stated that habitat for endangered species, wetlands, and other natural resources were better protected through siting decisions and mitigation, and that cultural and historic resources identified through the NEPA process also were protected. Pollution prevention and waste reduction plans assessed through the NEPA process ultimately allowed improvements in the environmental performance of projects, said respondents. Also cited by respondents was an indirect benefit resulting from enhanced awareness of environmental issues associated with DOE activities.

"NEPA implementation often leads to better decisions," said Eric Cohen, Unit Leader, NEPA Office. "This is what NEPA was meant to do. The NEPA Community has reported time and again how effective NEPA implementation enhances our relations with external agencies and the public, leads to better, informed decisionmaking, and yields demonstrable results in terms of projects that have lower environmental impacts and more effectively meet DOE's needs." LL

We want to hear from you!

How would you improve the Lessons Learned Questionnaire? Would you like us to add questions or remove some? How can we better share lessons learned throughout DOE, particularly to people new to the NEPA program? Send your suggestions to Vivian Bowie at vivian.bowie@eh.doe.gov or 202-586-1771.

Apply Common Sense: Reduce Unfamiliar Abbreviations, Retain Helpful Ones

An embarrassing moment occurred recently in a DOE manager's presentation to a Citizens Advisory Board: according to a news article, the speaker was unable to explain the meaning of the five abbreviations in a presentation slide. In reaction, the Board proposed to charge speakers a 25-cent fine for each use of an abbreviation.

On the other hand, another speaker acknowledged, "I'd feel like I was being punished if I had to say 'Comprehensive Environmental Response, Compensation, and Liability Act' every time instead of CERCLA." "Some of the spell-outs are worse than the acronyms," said a Board member, "but we're going to try, especially for the new people."

The same principles apply to the NEPA process. Obscure abbreviations, which may be found in many NEPA documents, can undermine effective communication. NEPA document preparers should address abbreviation use with common sense and sensitivity, especially to the first-time reader. A list of abbreviations and their explanations in EAs and EISs would help. Additional recommendations are provided in "Use QCPTEEA to Reduce Abbreviations" (*LLQR*, December 2000, page 8).

By the way, an acronym is an abbreviation that is pronounced as a word – so NEPA is an acronym but DOE is a mere abbreviation. LL

Carbon Sequestration Programmatic EIS Supports Global Climate Change Initiative

DOE has begun a Programmatic EIS (PEIS) to assess the potential environmental impacts from its Carbon Sequestration Program, which is administered by the Office of Fossil Energy's (FE's) National Energy Technology Laboratory (NETL). The Carbon Sequestration Program implements the Global Climate Change Initiative announced by President Bush on February 14, 2002 (text box, next page), as well as several National Energy Policy goals targeting the development of new technologies, market mechanisms, and international collaboration to reduce greenhouse gas intensity and greenhouse gas emissions.

NETL expects that its strategy of preparing a Programmatic EIS will efficiently support the Global Climate Change Initiative in several ways. For example, findings from the PEIS will inform the Department's selection of technologies to study for future demonstration and deployment, and provide a framework for technology assessment. The PEIS will help identify keys issues and impacts for detailed analysis in future site-specific or project-specific NEPA reviews that could tier from the PEIS, streamlining their preparation. Also, a programmatic document is better suited than project-specific documents for evaluating issues and impacts of nationwide and global scope, and considering regional approaches to sequestration.

Program Targets 2012 and Beyond

Through the Carbon Sequestration Program, FE aims to "demonstrate a series of safe and cost-effective technologies at a commercial scale by 2012 and to establish the potential for deployment leading to substantial market acceptance beyond 2012," as stated in the notice of intent (NOI) (69 FR 21514; April 21, 2004) for the PEIS.

Over 80 research and development projects currently are being carried out throughout the U.S. in carbon capture, sequestration, storage, non-CO_2 greenhouse gas mitigation, measurement, monitoring, verification, and breakthrough concepts – revolutionary technologies that could make drastic cuts in greenhouse gas emissions. The goal is to "develop a portfolio of technology options that have significant potential" for reducing carbon intensity and meeting other program goals, according to the NOI.

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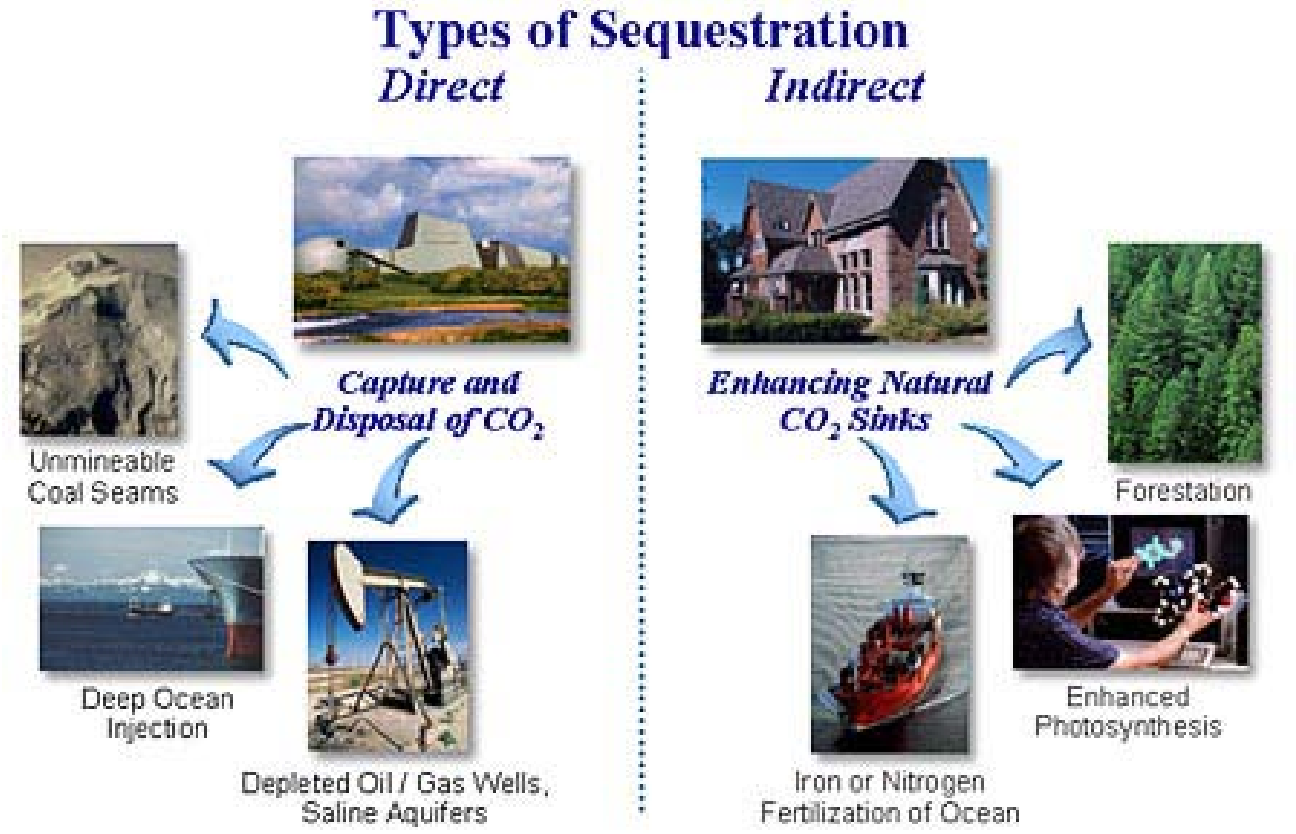

Source: http://www.netl.doe.gov/coalpower/sequestration/images/slide2.jpg

Carbon Sequestration PEIS

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These efforts are needed, the NOI explains, because carbon dioxide concentrations in the atmosphere have increased rapidly, in correlation with the rate of world industrialization. Annual greenhouse gas emissions in the U.S., for example, are 12 percent higher now than in 1992.

"What constitutes an acceptable level of greenhouse gases in the atmosphere remains open to debate," according to NETL, "but even modest stabilization scenarios would eventually require a reduction in worldwide greenhouse gas emissions of 50 to 90 percent below current levels." (See *www.netl.doe.gov/coalpower/sequestration/pubs/04co_seq_portfolio.pdf*.)

The Carbon Sequestration Program includes seven Regional Partnerships, involving more than 150 organizations across 40 states, two Canadian provinces, and three Indian nations. DOE and its partners seek to determine the most suitable technologies, regulations, and infrastructure needs for carbon capture, sequestration, and storage in various geographic areas.

For example, the Department of Agriculture's Natural Resources Conservation Service and Forest Service, along with electric utilities, are collaborating with DOE on terrestrial sequestration, and the U.S Geological Survey and the oil industry are partners with DOE on geologic sequestration. DOE's Office of Science, the academic research community, the National Science Foundation, and the National Academy of Sciences are focusing on the identification of priority research areas and breakthrough concepts.

Nationwide Scoping Process

DOE initiated the PEIS because issues related to sequestration decisions are nationwide in scope and because research and development activities for carbon sequestration "are demonstrating the potential readiness of technologies for field-testing," according to the NOI. The PEIS "will not directly evaluate specific field demonstration projects," though these might be addressed in future tiered NEPA documents. Instead, the "PEIS will evaluate the issues and impacts associated with the demonstration and deployment of technologies to implement the key elements of the [Carbon Sequestration] Program," including "impacts of carbon sequestration technologies and future demonstration activities programmatically."

NETL has taken several steps to foster public participation, with varying degrees of success. For example, in view of the nationwide scope and to enhance public participation, NETL decided to conduct eight public scoping meetings across the country. The meeting locations were selected to enable the participation of the Carbon Sequestration Program's seven regional partners. Although attendance at the five meetings conducted so far has been light to moderate, NETL is receiving valuable scoping comments, helping it to identify key issues (e.g., sequestered carbon stability, safety issues, cost issues, and a need to better inform the public about the program).

To enhance public participation, NETL scheduled the first public scoping meeting on May 6, 2004, to coincide with a national conference on carbon sequestration that NETL conducted in Arlington, Virginia. This approach was successful in attracting about 45 people, many of them from the conference; however, no one provided comments during the formal portion of the meeting.

The last public meeting will be held on June 10 and the public scoping period ends June 25. The draft PEIS is planned to be available in late 2005 and the final PEIS in 2006. Further information about the Carbon Sequestration Program and the PEIS is available on the Web at *www.netl.doe.gov/coalpower/sequestration* and by contacting Dr. Heino Beckert, Document Manager, at heino.beckert@netl.doe.gov or 304-285-4132. LL

What is the Global Climate Change Initiative?

The Global Climate Change Initiative relies on the power of the markets and technological innovation to achieve reductions in greenhouse gas emissions. One goal of the initiative is an 18 percent reduction in the carbon intensity (the ratio of carbon dioxide (CO_2) gas emissions to economic output) of the U.S. economy by 2012, while maintaining economic growth for investment in new and clean energy technologies. More information on this Initiative is available on the Web at *www.whitehouse.gov/news/releases/2002/02/climatechange.html*.

What is Carbon Sequestration?

Carbon sequestration refers to the removal of carbon dioxide from large point sources (such as power plants, oil refineries, and industrial processes) or from the air itself and then storing it in geologic formations, such as depleted oil and gas reservoirs, deep coal seems, or saline formations. Carbon sequestration also refers to increasing the natural carbon dioxide uptake of plants, trees, and soil to increase their carbon dioxide storage.

The Libyan Connection: Emergency Action Needed

Emergency Identified

DOE occasionally must decide to take quick actions involving a classified subject without time to prepare an EIS or EA. This was the case when Henry Garson, Associate General Counsel for DOE's National Nuclear Security Administration (NNSA), was invited on January 13, 2004, to a classified meeting the next day with representatives from the Departments of State and Defense. DOE/NNSA learned that the Libyan government had agreed to give up its nuclear weapons program and all other weapons of mass destruction, and that the governments of the United States and the United Kingdom had agreed to remove the nuclear materials.

Apparently, the only catch was that an unknown amount of nuclear material at an unspecified enrichment level had to be removed quickly. In fact, as these agency officials were being briefed on the situation, a DOE team from Oak Ridge had already been assembled and was planning the mission to fly to Libya, package the nuclear material, some classified documents, and gas centrifuge parts, and transport it all back to the United States. The DOE team was expected to package the nuclear material for shipment on January 27, 2004, just 13 days from the meeting. Because there is no categorical exclusion to cover this action – and no time to prepare an EA, much less an EIS – DOE had to find an alternative approach to meeting its obligations for environmental review.

Alternate Approach Adopted

Under the DOE NEPA implementing regulations (10 CFR 1021.343(a)), in emergency situations that demand immediate action, DOE may take an action without observing all provisions of its NEPA regulations or the Council on Environmental Quality (CEQ) regulations. To do so, however, DOE must consult with CEQ as soon as possible regarding alternative arrangements for emergency actions having significant environmental impacts. During the week following the January 14th meeting, therefore, DOE/NNSA and Office of NEPA Policy and Compliance staff began consultation with CEQ.

DOE's approach was to show CEQ that similar actions had received appropriate NEPA review and that their environmental impacts had been analyzed. Office of NEPA Policy and Compliance staff was aware of an existing EIS covering transportation of similar nuclear material, including a classified analysis of potential environmental impacts from possible accidents. CEQ was briefed on this analysis and agreed that the impacts would be of a similar nature. On January 26, 2004, CEQ found that NNSA's request for alternative arrangements was appropriately limited to the actions necessary to address the immediate impacts and risks associated with the emergency. Based on the briefing that DOE personnel provided, and NNSA's commitment to consult with the U.S. Environmental Protection Agency and others, CEQ concluded that NNSA's assessment of the environmental impacts, including incorporation of an existing classified analysis of a similar scenario, provided sufficient alternative arrangements for NEPA compliance.

Nuclear Package Arrives

On January 27, 2004, the DOE Oak Ridge team, with the help of the U.S. Air Force, removed 55,000 lbs of nuclear material, including four containers of uranium hexafluoride, from Libya and transported it to McGhee Tyson Airport in Knoxville, Tennessee. From there the material was transported without incident to the Y-12 National Security Complex at Oak Ridge. Immediately after the shipment arrived safely at Y-12, the President announced it – effectively "unclassifying" the mission. The material was then transported to DOE's Portsmouth facility in Ohio for disposition. Following the successful completion of the mission, NNSA again briefed CEQ and issued a notice of emergency action (69 FR 10440; March 5, 2004), successfully complying with the provisions of 10 CFR 1021.343, *Variances*.

National Nuclear Security Administration

NEPA Strategy Adjusts to Changing Circumstances

DUF_6 Conversion Facilities EISs

Sometimes external events significantly alter NEPA plans. Such was the case when an August 2002 supplemental appropriations bill (Public Law 107-206) was passed requiring DOE to award a contract, within 30 days of enactment, to design, construct and operate depleted uranium hexafluoride (DUF_6) conversion facilities at both its Portsmouth (Ohio) and Paducah (Kentucky) sites. The law also directed that the contract require construction to start no later than July 31, 2004. These requirements caused DOE to adjust its ongoing NEPA process for the DUF_6 conversion projects.

The proposed facilities are needed to convert DUF_6 to a more stable chemical form suitable for beneficial use or disposal. Besides construction and operation of the conversion facilities, DOE's proposal includes transportation of the conversion products and waste materials from Portsmouth and Paducah to a disposal facility, transportation and sale of the hydrogen fluoride produced as a conversion co-product, and neutralization of hydrogen fluoride to calcium fluoride and its sale or disposal. DOE would also transport the DUF_6 cylinders stored at the East Tennessee Technological Park, near Oak Ridge, Tennessee, to Portsmouth for conversion.

At the time the law was passed, DOE was preparing a single EIS to evaluate potential environmental impacts of constructing and operating one large or two smaller DUF_6 facilities at the DOE sites, or using existing conversion capacity at commercial nuclear fuel fabrication facilities. DOE had conducted scoping in the fall of 2001.

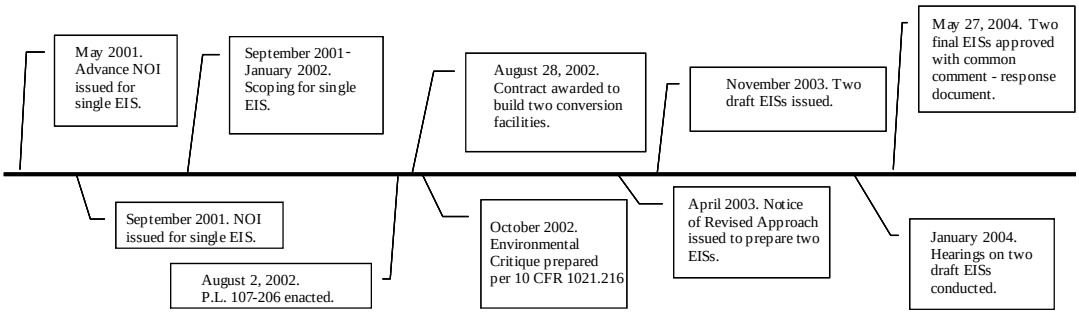
When Congress directed that both plants be built, DOE decided to cancel the single EIS and prepare two separate EISs: one for a facility at Paducah and one for a facility at Portsmouth. The Portsmouth and Paducah sites were no longer alternatives to each other. DOE also changed the focus of the NEPA review (i.e., the range of reasonable alternatives to be analyzed) to specific locations at each DOE site. DOE's decision to prepare two EISs helped ensure that any delay related to one site would not delay the project at the other site.

Although the EISs are separate, they were managed in parallel to maximize efficiency and consistency. DOE issued a Notice of Revised Approach in April 2003 and considered comments received on it and in scoping for the previous EIS in preparing the new EISs. DOE mailed the two Draft EISs to stakeholders in November 2003 and held public hearings in January 2004. Because of the similarities in the proposed actions and the general applicability of numerous comments to both site-specific EISs, DOE prepared a single comment-response document for inclusion in both EISs. This effort saved time and money, required less work to organize and edit, and provided the public with all comments received on both Draft EISs and all DOE responses.

According to Gary Hartman, the EIS Document Manager, "it just made good sense to pool our resources into one set of comment-responses to be included in both EISs. That way, similar issues could be handled the same, and the folks in Ohio and Tennessee could read the comments from Kentucky (and vice versa) and DOE responses. More importantly, saving time became a priority after the Draft EISs were issued late last year. It was essential that the Final EISs be completed "on time" to allow records of decision to be issued and construction to begin by July 31, 2004." Without the flexibility of preparing a single set of comment-responses for two EISs, the risk of a schedule slip would have been much greater.

DOE approved the EISs in late May and will issue them in early June. For more information, contact Gary Hartman, NEPA Document Manager, at hartmangs@oro.doe.gov or 865-576-0273.

Timeline of EISs for Portsmouth and Paducah DUF_6 Conversion Facilities



Card Game Highlights Diversity at Federal-Tribal NEPA Clinic

By: Katherine S. Pierce, *Senior Environmental Specialist for Policy and Power, Bonneville Power Administration*

It's Day 2 of the Tribal Environmental Review Clinic in Seattle, Washington. Four teams are huddled in the corners of the conference room, shuffling through decks of cards. The blue cards specify steps in the NEPA environmental review process and the green cards identify opportunities for tribal and public involvement. The objective of the group exercise is to create a timeline of events, identifying critical junctures for Federal communication and/or consultation with tribes during NEPA analyses and processes. There is quite a diversity of opinions and outcomes! Perhaps this can best be explained by the diversity within the room.

The 3-day workshop brought together representatives from 22 tribes, 17 Federal agencies from 8 Departments (that's 8 different sets of NEPA implementing regulations), the Environmental Protection Agency, and the Council on Environmental Quality. (See text box.) Each team in the group exercise included both tribal and Federal participants. As each team attempted to arrange all of the blue NEPA cards across a timeline, it quickly became clear that this would not be a simple assignment. There were so many different opinions based on so many different experiences. A quick peek at the arrays of blue cards on the walls confirmed these divergences.

Then, once the blue NEPA cards were arranged across the wall, it was time to overlay the green tribal involvement cards. Again, what a variety of opinions! Green cards were put up and taken down. Even the blue cards were rearranged. In the end, there were four quite different timelines created. But the real goal of the group exercise had been met: through sharing information and collaborating on a process, we had strengthened our relationships.

In 2000, staff from the Tulalip Tribes, in conjunction with tribal experts from across the country, published a handbook as a comprehensive guide for American Indian and Alaska Native communities. Part I of this tribal handbook on environmental review focused on participating in NEPA and Part II focused on developing tribal environmental policy acts (TEPAs). Both processes – NEPA and TEPA – create opportunities for more informed decisionmaking. Both processes also ensure opportunities for expressing issues and concerns.

By providing tribe-to-tribe training, the Tulalip Tribe's Tribal Environmental Review Clinic is the next step in supporting tribal participation and leadership in

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NEPA/TEPA Work Group

The Council on Environmental Quality (CEQ) announced in February 2004 that it was establishing an Inter-Agency NEPA/TEPA (National Environmental Policy Act/Tribal Environmental Policy Acts) Work Group, in collaboration with the Department of the Interior, the Bureau of Indian Affairs, the Forest Service, the Advisory Council on Historic Preservation, the Department of Defense, the Army Corps of Engineers, and the Environmental Protection Agency (EPA).

With its announcement, CEQ invited Federal agencies to nominate representatives to a March 2004 regional tribal workshop, developed by the Tulalip Tribes with an EPA grant and based on the October 2000 comprehensive guide to the NEPA process published by the Tulalip Tribes. One goal of the Inter-Agency Work Group is to support such ongoing efforts to develop collaborative tribal-Federal NEPA training and workshops.

In response to CEQ's request that Federal participants be from the Pacific Northwest region, understand NEPA and tribal coordination, and be in positions to build effective working relationships and enhance effective tribal participation in the NEPA process, DOE nominated Katherine Pierce from the Bonneville Power Administration. She joined about 20 other Federal participants and 40 tribal representatives from the Pacific Northwest in the 3-day Tribal Environment Review Clinic, as she discusses in the accompanying article. This regional tribal workshop was organized in conjunction with a Tribal National Advisory Board to ensure that it could serve as a model for future sessions in other regions.

For further information on the Inter-Agency NEPA/TEPA Work Group contact Cheryl Wasserman, Associate Director for Policy Analysis, Office of Federal Activities, EPA, who coordinated the March 2004 Workshop with the Tulalip Tribes (wasserman.cheryl@epamail.epa.gov or 202-564-7129).

The Tulalip Tribes Handbook – "Participating in the National Environmental Policy Act/Developing a Tribal Environmental Policy Act: A Comprehensive Guide for American Indian and Alaska Native Communities" – is available on its Web site, *www.tulalip.nsn.us*, under "Tribal Environmental Review Clinic."

Federal-Tribal NEPA Clinic

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environmental review processes. The purpose of the Clinic is to help tribes protect their natural and cultural resources through informed and leveraged participation in the NEPA process. The Clinic is also intended to assist tribes in the development of internal environmental review practices that meet their organizational and cultural needs.

The Seattle workshop was the first Tribal Environmental Review Clinic. Day 1 was devoted to providing the tribal participants with an understanding of the requirements, responsibilities and opportunities associated with Federal agency NEPA procedures, and Day 3 concentrated on assisting tribes in developing TEPAs. On Day 2, Federal agency representatives were invited to share in the experience. The agenda was filled with group exercises, presentations, case studies, lessons learned, clinics, and group discussions. However, the collaborative group exercise described above on defining opportunities for tribal-Federal consultation and involvement during the NEPA process was definitely the highlight of the day.

For further information on the Workshop, contact Katherine Pierce at kspierce@bpa.gov or 503-230-3962. LL

Yucca Mountain Rail Alignment EIS Scoping

(continued from page 3)

and explaining how to provide detailed, specific comments that would help the Department address their concerns. Representatives of the Surface Transportation Board, the U.S. Air Force, and the Bureau of Land Management also were available for the public to consult with at the meetings. These agencies will participate as cooperating agencies in preparing the EIS.

People could provide comments in several ways, such as by completing written forms and placing them in a "suggestion" box. In addition, people could provide oral comments to either of two court reporters. A DOE official listened to the comments provided to the reporters, occasionally asking questions to clarify a comment. Two reporters appeared adequate for the meetings, at which attendance ranged from about 40 to 115.

Lessons Learned on Meeting Format

- The "open house" format fostered dialogue and solicitation of comments. Further, the meeting format beneficially fostered a "community meeting" atmosphere, particularly at small towns along the potential route (Amargosa Valley, Goldfield, and Caliente).
- At the first meeting, several people arrived and began asking questions while the scoping team was still setting up displays and before the arrival of the court reporters, in effect starting the meeting early. The meeting format may have fostered this. While this did not pose a serious problem, the team learned to arrive and set up even earlier for subsequent meetings.
- Several people said they are more comfortable providing comments to a court reporter and a DOE representative, rather than to an entire group as in some other formats. A few people, however, stated that they preferred to address the entire group.
- A few people said that they would have preferred to be able to hear other people's comments. Under the meeting format, neither agency representatives nor other meeting participants could hear everyone's comments. Making transcripts of oral comments publicly available may help address this concern.
- DOE did not place any time limits on oral commenters, and a few people spoke to a reporter for up to 20 minutes. While no complaints were received, meeting planners should consider the need for limits in other settings.
- A few people did not appear to understand how the meeting was intended to work. For example, some people looked for any available chair and, until DOE engaged them, appeared to be waiting for a formal presentation.
- One commenter who had not listened to the taped video presentations said that, although DOE too often makes unwelcome lengthy formal presentations at public meetings, a short (10 to 15 minute) DOE update on the EIS and the repository program would have been helpful in this case.

For further information, contact Robin Sweeney, Document Manager, at robin.sweeney@ymp.gov or 702-794-1417. LL

See two related articles, pages 12 and 13.

About the Yucca Rail Alignment EIS

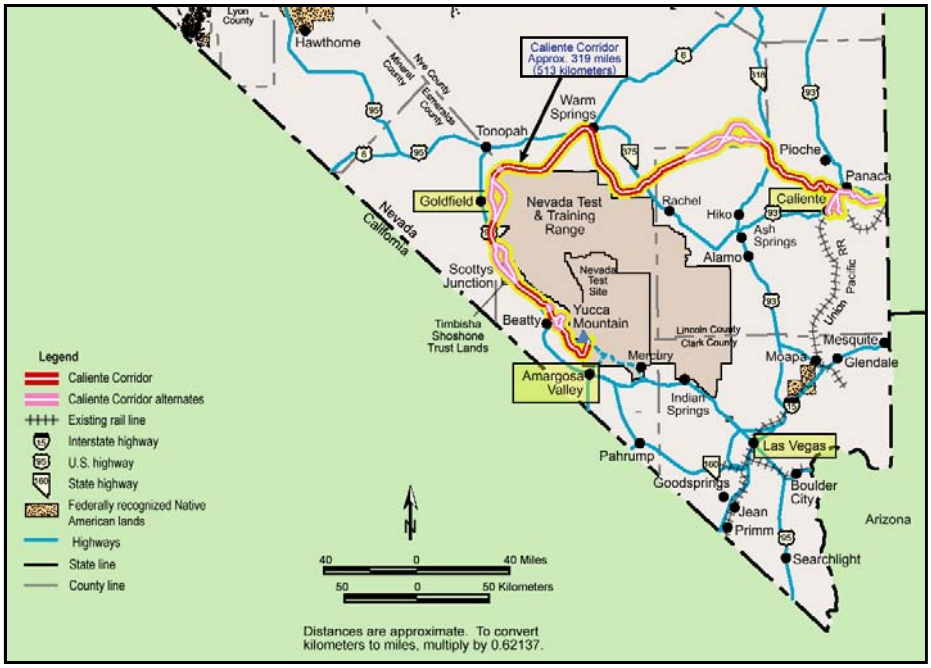
In its April 8, 2004, Record of Decision (ROD) for the "Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada" (DOE/EIS-0250F) (Repository EIS), DOE decided to use rail for most of the shipments to the repository. Because there is no existing rail access to Yucca Mountain, implementing this decision will require the construction of a rail line to connect the repository site to an existing rail line in the State of Nevada. The rail line would be used to transport up to 70,000 metric tons of spent nuclear fuel and high-level radioactive waste from 72 commercial and 5 DOE sites to the repository. About 3,000 to 3,300 total rail shipments – about one train every two days with three casks per train – would be required during a 24-year period. (About 1,000 additional truck shipments from sites without rail capability would also be required.)

In the ROD, DOE also selected the Caliente corridor from among five alternative Nevada *rail corridors* in which to study possible *alignments* for the rail line. DOE defined a *rail corridor* as a 0.25 mile wide strip of land that encompasses one of several possible *alignments,* or specific locations, within which DOE could build a rail line. A *rail alignment* was defined as a strip of land 100 feet on either side of the track centerline.

The Caliente corridor originates at an existing siding to the mainline railroad near Caliente, Nevada, extends westerly to the northwest corner of the Nevada Test and Training Range, before turning south-southeast to the repository at Yucca Mountain (map, below). In the Repository EIS, DOE analyzed eight alternative routes (variations) along the Caliente corridor that may minimize or avoid environmental impacts and construction complexities. The Repository EIS did not identify alternatives for about 55 percent of the corridor length, referred to as "common segments."

As explained in the Notice of Intent (NOI) (68 FR 18566; April 8, 2004) for the Rail Alignment EIS, the proposed action is to determine a rail alignment within the Caliente corridor, and to construct and operate the rail line. In determining the alignment, DOE will explore alternative alignments within the common segments and eight alternative routes. The final alignment is expected to be less than 200 feet wide, although the EIS will explore a much wider area. The NOI also requested comments on additional routing alternatives outside of the defined Caliente corridor that might avoid or minimize environmental impacts, such as by avoiding wilderness study areas, Native American Trust Lands, encroachment on the Nevada Test and Training Range, or sensitive resources. DOE must also consider rail design requirements (e.g., grade) and construction complexities in a variety of terrains in optimizing the alignment. Construction could take up to four years and cost up to an estimated $880 million.

The repository program plans to select an EIS contractor, complete the scoping process, conduct detailed field surveys, and issue a draft EIS in early 2005. For more information about the EIS see *www.ocrwm.doe.gov/wat/mode_decision.shtml*.



Location of the Caliente corridor in Nevada.

Repository Program and NEPA Process Update

After responding to more than 13,000 comments on the repository Draft EIS and Supplement to the Draft EIS, DOE completed the approximately 5000-page Final Repository EIS. In February 2002, the Repository EIS accompanied the Secretary of Energy's recommendation to the President, in accordance with the Nuclear Waste Policy Act. At that time DOE made the Repository EIS available to the public on the Internet and in reading rooms.

On July 23, 2002, the President signed into law (Pub. L. 107-200) a joint resolution of the U.S. House of Representatives and the U.S. Senate designating the Yucca Mountain site for development as a geologic repository for the disposal of spent nuclear fuel and high-level waste. DOE subsequently completed distribution of the Repository EIS in paper and CD ROM format and the Environmental Protection Agency published a Notice of Availability on October 25, 2002 (67 FR 65564). (See related article, *Innovative, Efficient EIS Distribution Saves Yucca Mountain Project $200,000* in *LLQR*, March 2003, page 9.)

The Repository EIS provides the environmental impact information necessary to make certain broad transportation-related decisions, such as a choice of transportation mode (e.g., mostly rail or mostly legal-weight truck) nationally and in the State of Nevada, and the choice among alternative rail corridors in Nevada. The Final EIS identified mostly-rail as DOE's preferred alternative transportation mode, both nationally and in the State of Nevada; however, the EIS did not identify a preference among the five alternative rail corridors in Nevada.

Allen Benson, Yucca Mountain Project Public Affairs specialist, greeted members of the public at the scoping meeting in Goldfield for the ongoing Rail Alignment EIS.

On December 29, 2003, DOE published in the *Federal Register* a Notice of Preferred Nevada Rail Corridor (68 FR 74951), announcing the Caliente corridor as its preferred corridor in which to consider a rail alignment for the construction of a rail line in Nevada, and the Carlin corridor as a secondary preference. Also on December 29, 2003, the Bureau of Land Management (BLM) published a Notice of Proposed Withdrawal and Opportunity for Public Meeting (68 FR 74965), announcing DOE's application to withdraw land for evaluation for the potential construction of a rail line. BLM's notice segregated land within a one-mile corridor from surface entry and mining for two years while studies are done to support a final decision on DOE's withdrawal application.

In March 2004, DOE issued a Supplement Analysis (DOE/EIS-0250-SA1) and concluded that a supplement to the Repository EIS was not required for a transportation scenario not explicitly analyzed in the EIS (i.e., shipping spent nuclear fuel in legal-weight truck casks on rail cars to a rail-to-truck transfer station in Nevada, thence to the repository).

In its Record of Decision (ROD) (69 FR 18557; April 4, 2004) DOE selected: (1) the mostly-rail scenario as the shipment mode nationally and in the State of Nevada, and (2) the Caliente corridor in which to examine potential alignments for construction of a rail line to the repository. (The ROD stated that DOE would use truck transport where necessary, depending on certain factors such as timing of completion of the rail line proposed to be constructed in Nevada. This could include building an intermodal capability at a rail line in Nevada to take legal-weight truck casks from rail cars and transport them to the repository via highway, should the rail system be unavailable at the time the repository opens.)

DOE also published on April 4, 2004, its Notice of Intent for the Rail Alignment EIS. DOE issued a later notice in response to a request from the State of Nevada, extending the public scoping period until June 1, 2004, and announcing the meetings in Reno and Las Vegas.

The repository program is now preparing an application to the Nuclear Regulatory Commission seeking authorization to construct the repository, and intends to submit the application in 2004. For more information about the repository program see *www.ocrwm.doe.gov/ymp/index.shtml.*

New Stakeholder Directory Compact Disk Will Faciliate Document Distribution

Beginning with the July 2004 edition the *Directory of Potential Stakeholders for DOE Actions under NEPA,* the Office of NEPA Policy and Compliance is instituting changes to make the annual Directory easier to use and more efficient to produce. In addition to the past practices of posting the Directory on the DOE NEPA Web site and distributing copies as requested, the NEPA Office will distribute the Directory on compact disk, which will allow users to copy and paste directory listings into other applications, such as spreadsheets and word processing. This should make it easier for NEPA Document Managers to prepare their EIS and EA distribution lists, letters, and labels for the categories of stakeholders included in the Directory: Federal agencies, state NEPA contacts (including state and local government associations), and regional and national nongovernmental organizations.

The NEPA Office intends to distribute the Stakeholder Directory on compact disk in early July, and welcomes user feedback at the July 20-21 DOE NEPA Community Meeting. The most recent Directory is available on the DOE NEPA Web site at *www.eh.doe.gov/nepa/tools/StakeholdersDirectory.pdf*. For additional information, contact Yardena Mansoor at yardena.mansoor@eh.doe.gov or 202-586-9326.

2004 Environmental Excellence Awards Presented at NAEP Conference

The National Association of Environmental Professionals (NAEP), at its April 2004 conference in Portland, Oregon, presented eight Environmental Excellence Awards, including a NEPA award, to recognize significant achievements in environmental practice. NAEP is a nonprofit association of about 5,000 members, who represent a broad range of professional environmental interests and backgrounds. The Association's annual national conference provides a forum for state-of-the-art information on environmental planning, research, and management – with more than 100 presenters of professional papers and panel discussions, including a NEPA symposium.

The NEPA Excellence Award was conferred on The Louis Berger Group, Inc., of Cary, North Carolina, for *Guidance for Assessing Indirect and Cumulative Impacts of Transportation Projects in North Carolina,* which it prepared for the North Carolina Department of Transportation. The highest NAEP honor, the President's Award, was conferred in the category of Conservation Programs, to the *San Antonio Water System Conservation Program* nominated by the San Antonio Texas Water System Public Utility and endorsed by the Governor of Texas. Additional awards were conferred for outstanding projects in Educational Excellence, Environmental Management, Planning Integration, Public Involvement/ Partnership, Environmental Stewardship, and Best Available Environmental Technology.

April 2005 Conference in DC Area

NAEP's 2005 conference – with an announced theme of *Inspiring Global Environmental Standards and Ethics* – will be held April 16-19, 2005, in Alexandria, Virginia, close to Washington, DC. A NEPA Symposium will be on the agenda. See the conference Web site, at *www.naep.org/CONFERENCE05/Alexandria.html*, for details – including instructions on submitting an abstract for a paper or poster session or a nomination for an Environmental Excellence Award. For additional information, contact Gary Kelman, Chair, NAEP Conference Committee, at gkelman@mde.state.md.us or 410-537-3630, or Jim Melton, Chair, NAEP Environmental Excellence Awards Committee at jmelton@maximusa.com or 406-443-5210.

Abstracts are due August 31, 2004.

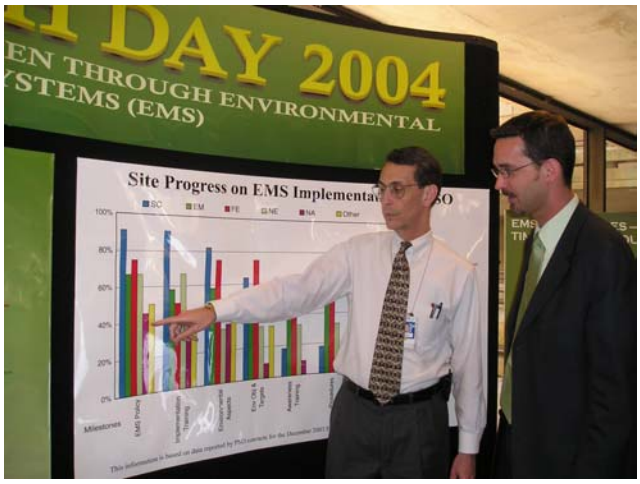
Award nominations are due February 26, 2005.

EH Celebrates Earth Day 2004

The Office of Environment, Safety and Health (EH) contribution to DOE's Earth Day 2004 celebration was an exhibit, *Getting to Green through Environmental Management Systems* (EMS), displayed in the Headquarters Forrestal Building for two weeks in April. The exhibit highlighted DOE's progress in implementing EMSs – a goal to be reached at all DOE sites by December 31, 2005 – by identifying DOE Site and Program Offices that have fully implemented an EMS and those that are still striving to meet the deadline.

DOE's EMS Web site, maintained by the Office of Environmental Policy and Assistance at *www.eh.doe.gov/oepa/ems*, includes up-to-date information to assist Offices in EMS implementation.

For more information on DOE's EMS activities, contact Larry Stirling at john.stirling@eh.doe.gov or 202-586-2417. DOE's EMS commitments and the *Environmental Protection Program* Order were the subjects of an article in *LLQR*, March 2003, page 1.



Deputy Assistant Secretary for Environment Andy Lawrence (left) and Jim Sanderson, the NEPA Office's EMS contact, consider Site and Program progress in EMS implementation.

EH Hosts Pollution Prevention Teleconference

The DOE Office of Pollution Prevention and Resource Conservation (EH-43) hosted a May teleconference among Headquarters and Field sites to discuss lessons learned, promote innovation, and address ways to meet DOE's new pollution prevention (P2) goals by December 2005. P2 goals can be addressed through environmental management systems that include targets for reduced waste stream generation, reduced releases to environmental media, and increased purchase of environmentally preferable products and services. Speakers emphasized continuous improvement in efficiency and cost-effectiveness, and encouraged organizations to report waste generation reduction activities and purchases of environmentally preferred products using the existing P2 databases (*www.eh.doe.gov/p2/*) so that progress can be measured.

The P2 conference agenda and speakers' presentation materials are available at *www.eh.doe.gov/oepa/p2/*. The DOE Environmental Stewardship Clearinghouse Web site at *http://epic.er.doe.gov/epic/* provides information on P2 activities and resources for DOE, the Department of Defense, and the Environmental Protection Agency. For more information on DOE's P2 program, contact Jane Powers, Office of Pollution Prevention and Resource Conservation, at jane.powers@eh.doe.gov or 202-586-7301.

Dr. Paul Anastas, Assistant Director, White House Office of Science and Technology Policy, emphasizes "Green Chemistry" as a P2 tool for source reduction. Green Chemistry is the design of chemical products and processes that reduce or eliminate the use and generation of hazardous substances. (See www.epa.gov/greenchemistry.*)*

Litigation Updates

DOE NEPA-Related Litigation In Brief

Border Power Plant Working Group v. Abraham, et al. (S.D. Calif.): The court granted DOE's request to extend the period of time – from July 1, 2004, to December 15, 2004 – for completing an EIS for two electric transmission lines that cross the U.S.-Mexico border. (See *LLQR*, December 2003, page 7, and September 2003, page 22.)
[Case No.: 02-CV-513-IEG (POR)]

Columbia Riverkeeper and State of Washington, et al., v. Abraham, et al. (E.D. Wash.): These consolidated legal actions seek to prohibit DOE from shipping transuranic and transuranic mixed waste to the Hanford site for treatment and storage pending DOE's preparation of additional NEPA documentation. In response to briefs filed on March 15, 2004, the court granted the Government's motion for a limited stay concerning NEPA issues pending issuance of a record of decision relying on the *Final Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement, Richland, Washington* (DOE/EIS-0286), which DOE issued in February 2004. A status conference is scheduled for June 1, 2004.
[Case Nos: 03-CT-5018 and 03-CT-5044]

Natural Resources Defense Council, et al., v. Abraham, et al. (9th Cir.): This is an appeal of the Idaho District Court's ruling that found invalid certain provisions of DOE Order 435.1, Radioactive Waste Management. These provisions would enable the Department to determine that some waste associated with reprocessing spent fuel is "waste incidental to reprocessing" and not subject to the management requirements for high-level waste. (See *LLQR*, September 2003, page 23.) The parties have fully briefed the issues in the appeals court and are awaiting the court's scheduling of oral argument. Meanwhile, Congress is considering legislation that would affect implementation of the Idaho District Court's decision.
[Case No.: 03-35711]

State of Nevada, et al., v. U.S. Department of Energy, et al. (D.C. Cir.): The court may issue its rulings in these cases this summer. [Case Nos. 01-1516, 02-1036, 02-1077, 02-1179, and 02-1196]

Tri-Valley Communities Against a Radioactive Environment, et al., v. U.S. Department of Energy, et al. (N.D. Cal.): This action alleges that the EAs for proposed Biosafety Level 3 ("BSL-3") facilities at Los Alamos National Laboratory (LANL) and Lawrence Livermore National Laboratory (LLNL) are deficient. (See *LLQR*, September 2003, page 23.) Based on DOE's decision to withdraw the FONSI for the LANL facility and prepare a new EA, the parties agreed in January 2004 to narrow the focus of this litigation to the adequacy of the LLNL EA and the need for a programmatic EIS on the Chemical and Biological National Security Program. (See *LLQR*, March 2004, pages 2 and 16.) The case has been fully briefed. No oral argument has been scheduled.
[Case No.: CV-03-3926-SBA]

Other Agency NEPA Cases

U.S. Department of Transportation, et al., v. Public Citizen, et al. (Supreme Court): The Supreme Court heard oral arguments on April 21, 2004, on an appeal of a decision by the Ninth Circuit Court of Appeals in a lawsuit over DOT's NEPA review for Mexican trucking safety and inspection rules. (See *LLQR*, March 2004, page 17, and June 2003, page 22.) The question before the Court is whether a presidential "foreign-affairs action" (i.e., allowing certain foreign trucks to enter the United States pursuant to the North American Free Trade Agreement), that is otherwise exempt from environmental review requirements under NEPA, can become subject to those requirements as a "reasonably foreseeable" consequence of agency action reviewed under the Council on Environmental Quality NEPA regulations and guidance. A decision is expected before the Court's term ends in June 2004. [Case No.: 03-358]

Norton, et al., v. Southern Utah Wilderness Alliance, et al. (Supreme Court): The Supreme Court heard oral arguments on March 29, 2004, in this case involving the scope of actions subject to review under the Administrative Procedure Act. (See *LLQR*, March 2004, page 17.) One issue before the Court is whether

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Litigation Updates

(continued from previous page)

management by the Bureau of Land Management of wilderness study areas (public lands that might be designated by Congress as wilderness areas) and adjacent lands in Utah requires supplemental environmental review under NEPA. A decision is expected before the Court's term ends in June 2004. [Case No.: 03-101]

San Luis Obispo Mothers for Peace, et al., v. U.S. Nuclear Regulatory Commission, et al. (9th Cir.): In a case concerning whether the Nuclear Regulatory Commission has an obligation under NEPA to consider the potential environmental impacts of terrorist acts in its licensing decisions, the petitioners filed a brief (*www.mothersforpeace.org/data/2004-03-159thCircuitBrief.pdf*) on March 15, 2004, and the states of California, Massachusetts, Utah, and Washington filed an amici curiae (friends of the court) brief (*http://caag.state.ca.us/newsalerts/2004/04-038.pdf*) in support of the petitioners on March 19, 2004. (See *LLQR*, March 2004, page 17, and March 2003,page 10.) [Case No.: 03-74628]

NEPA Community Meeting + DC in July = It Just Can't Get Any Better

DOE-wide NEPA Contracts Update

The following task has been awarded recently under the DOE-wide NEPA contracts. For questions, including information on earlier tasks awarded under DOE-wide NEPA contracts, contact David Gallegos at dgallegos@doeal.gov or 505-845-5849. Information and resources for potential users of these contracts are available on the DOE NEPA Web site at *www.eh.doe.gov/nepa* under DOE-wide NEPA Contracting.

Task Description	DOE Contact	Date Awarded	Contract Team
LANL Site-Wide EIS 5-Year Supplement Analysis	Elizabeth Withers ewithers@doeal.gov 505-667-8690	05/27/2004	SAIC

DOE Submits Fourth Cooperating Agency Report

Using the online Cooperating Agency Reporting System, DOE responded in late April to the Council on Environmental Quality's (CEQ's) request for Federal agencies to report biannually on cooperating agency activities in NEPA reviews. This fourth report covers DOE EISs and EAs initiated between September 1, 2003, and February 29, 2004. In that period, DOE started 3 EISs, including 1 with a cooperating agency, and 12 EAs, including 2 with a total of 3 cooperating agencies. The report also updates project milestones and changes in cooperating agency status of EISs and EAs covered in the previous three biannual reports.

CEQ has encouraged Federal agencies to consider potential Federal, state, and local cooperating agencies for each NEPA review. CEQ's initiatives to promote cooperating agency relationships and the benefits of cooperating agency participation in the NEPA process are described in *LLQR*, March 2002, page 1, and in the CEQ memoranda referenced therein (*http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html*). DOE NEPA document preparation teams should consult with their NEPA Compliance Officers if questions arise on this subject. For information on cooperating agency reporting, contact Yardena Mansoor at yardena.mansoor@eh.doe.gov or 202-586-9326.

Transitions

Beverly Cook Launches a New Career

Beverly Cook, Assistant Secretary for Environment, Safety and Health since February 2002, resigned from DOE effective April 16, 2004, and accepted a position at the Jet Propulsion Laboratory (JPL), which is managed by the California Institute of Technology. To date, an acting assistant secretary has not been named. "Moving to Pasadena puts me closer to my family," Ms. Cook explained, "and I will arrive at JPL at one of the most exciting moments." In July, after nearly seven years of interplanetary space travel, National Aeronautics and Space Administration's (NASA's) Cassini spacecraft will arrive at Saturn. "I will be there when the first pictures and data are received," she said.

Ms. Cook is well versed in the Cassini project. In 1997, DOE provided the plutonium power sources (the radioisotope thermal generators) for the spacecraft and was a cooperating agency with NASA in preparing the EIS for the Cassini project. Ms. Cook, then with the Office of Nuclear Energy, acted as the DOE spokesperson in explaining the risks associated with this project, and in controversies centered on the consequences of possible plutonium contamination from an accident during launch or earth orbit.

At a final staff meeting, she described a unique aspect of the JPL's work: that inflexible deadlines are often determined by astronomical opportunities. "Some things can only be done when the planets line up. It's amazing what can get done when no one can mess around with the end date," she said.

She expressed her appreciation for her DOE environmental staff, and noted that our stature has grown. Praising the NEPA staff, she said, "In the last couple of years, you have converted some of your biggest critics. Some who thought that you were just an obstacle to DOE getting things done now appreciate that you are the ones who keep DOE out of trouble."

Managers and staff of Environment, Safety and Health, along with DOE's NEPA Community, will miss Beverly Cook, who was so fluent in DOE's projects and a strong supporter of good decisionmaking. We wish her well in her future endeavors.

New NCO for Rocky Flats: Richard Schassburger

Richard Schassburger was designated as NEPA Compliance Officer (NCO) for the Rocky Flats Project Office on the retirement of Joseph Rau in December. Mr. Schassburger has been with DOE since 1979 and with the Rocky Flats Project Office since 1988. His NEPA experience dates back to the early 1990s when he served as the first NCO for Rocky Flats. In addition to NEPA, Mr. Schassburger is responsible for regulatory compliance for the closure of the Rocky Flats Environmental Technology Site. He can be reached at richard.schassburger@rf.doe.gov or 303-966-4888.

Training Opportunities

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

- **Clear Writing for NEPA Specialists**
  Washington, DC: June 8-10
  North Bend, OR: August 17-19
  Fee: $795

  Executive Overview and Teambuilding for NEPA Specialists
  Jackson Hole, WY: July 20-22
  Fee: $795

  How to Manage the NEPA Process and Write Effective NEPA Documents
  Reno, NV: August 24-27
  Fee: $995

  The Shipley Group
  888-270-2157 or 801-298-7800
  shipley@shipleygroup.com
  www.shipleygroup.com

- **NEPA Certificate Program**
  Conducted through Utah State University. Requires successful completion of four core and three elective courses offered by The Shipley Group. Courses completed in 2000 or later may be applied toward the certificate. Also requires completion of course exams and a final project.

  Fee: $4,995 (includes tuition, course fees, and all materials)

  Natural Resources and
  Environmental Policy Program
  Utah State University
  435-797-0922
  judy.kurtzman@usu.edu
  www.cnr.usu.edu/policy/nepa.html

- **Preparing and Documenting Environmental Impact Analysis**
  Durham, NC: June 21-24
  Fee: $1090

  The Law of NEPA
  Durham, NC: July 21-23
  Fee: $695/$775 (by/after June 28)

  Implementation of the National Environmental Policy Act
  Durham, NC: October 18-22
  Fee: $1050/$1150 (by/after September 20)

  Current and Emerging Issues in NEPA
  Durham, NC: November 17-19
  Fee: $695/$775 (by/after October 25)

  Nicholas School of the Environment
  and Earth Sciences
  Duke University
  919-613-8082
  sea3@duke.edu
  www.env.duke.edu/del/shortcourses/courses/upcoming.html

  NEPA Certificate Program
  Requires successful completion of one core and three elective Duke University NEPA short courses. A written paper also is required. Previously completed courses may be applied toward the certificate.

  Fee: Included in registration for constituent courses.

  del@env.duke.edu
  www.env.duke.edu/del/certificates/certificates.html

EAs and EISs Completed January 1 to March 31, 2004

EAs

Bonneville Power Administration
DOE/EA-1467 (2/6/04)
Bonneville-Alcoa Access Road Project, Washington
Cost: $35,000
Time: 13 months

DOE/EA-1486 (3/15/04)
Methow Valley Irrigation District Rehabilitation Project, Washington
Cost: $43,000
Time: 5 months

Chicago Operations Office
DOE/EA-1483 (3/3/04)
Decontamination and Decommissioning of the Juggernaut Reactor in Building 335 at Argonne National Laboratory-East, Illinois
Cost: $35,000
Time: 6 months

National Nuclear Security Administration
DOE/EA-1471 (1/15/04)
Transportation of HEU from Russian Federation to Y-12 National Security Complex, Tennessee
Cost: $193,000
Time: 13 months

EISs

Environmental Management/Ohio Field Office
DOE/EIS-0337 (69 FR 2583; 1/16/04)
(EPA Rating: LO)
West Valley Demonstration Project Waste Management, New York
Cost: $1,119,000
Time: 27 months

Environmental Management/ Richland Operations Office
DOE/EIS-0286 (69 FR 7215; 2/13/04)
(EPA Rating: EC-2)
Hanford Solid (Radioactive and Hazardous) Waste Program, Washington
Cost: $9,000,000
Time: 76 months

ENVIRONMENTAL PROTECTION AGENCY (EPA) RATING DEFINITIONS

Environmental Impact of the Action
LO – Lack of Objections
EC – Environmental Concerns
EO – Environmental Objections
EU – Environmentally Unsatisfactory

Adequacy of the EIS
Category 1 – Adequate
Category 2 – Insufficient Information
Category 3 – Inadequate

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

NEPA Document Cost and Time Facts

EA Costs and Completion Times

- For this quarter, the median cost of four EAs completed was $39,100; the average was $76,500.
- Cumulatively, for the 12 months that ended March 31, 2004, the median cost for the preparation of 22 EAs for which cost data were applicable was $43,000; the average was $81,300.
- For this quarter, the median completion time of four EAs was 10 months; the average was 9 months.
- Cumulatively, for the 12 months that ended March 31, 2004, the median completion time for 22 EAs was 10 months; the average was 9 months.

EIS Costs and Completion Times

- For this quarter, the median and average cost of two EISs was $5,060,000.
- Cumulatively, for the 12 months that ended March 31, 2004, the median cost for the preparation of seven EISs for which cost data were available and applicable was $2,075,000; the average was $1,119,000.
- For this quarter, the median and average completion time of two EISs was 52 months.
- Cumulatively, for the 12 months that ended March 31, 2004, the median completion time for seven EISs was 27 months; the average was 33 months.

Recent EIS-Related Milestones (March 1 to May 31, 2004)

Notices of Intent

Civilian Radioactive Waste Management
DOE/EIS-0369
Environmental Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geologic Repository at Yucca Mountain, Nye County, Nevada
April 2004 (69 FR 18565, 4/8/04)

Fossil Energy/
National Energy Technology Laboratory
DOE/EIS-0366
Implementation of the Office of Fossil Energy's Carbon Sequestration Program
April 2004 (69 FR 21517, 4/21/04)

Draft EISs

Fossil Energy/
National Energy Technology Laboratory
DOE/EIS-0284
Low Emission Boiler System Project, Elkhart, Illinois
March 2004 (69 FR 10422, 3/5/04)

Fossil Energy
DOE/EIS-0365
Imperial-Mexicali 230 kV Transmission Lines, Imperial County, California
May 2004 (69 FR 26817, 5/14/04)

Record of Decision

Civilian Radioactive Waste Management
DOE/EIS-0250
Record of Decision on Mode of Transportation and Nevada Rail Corridor for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada
April 2004 (69 FR 18557, 4/8/04)

Supplement Analyses

Bonneville Power Administration

Vegetation Management Program Environmental Impact Statement
(DOE/EIS-0285)

DOE/EIS-0285-SA-193
Vegetation Management for the Big Eddy-Midway No. 1 500 kV and the McNary-Ross No. 1 345 kV Transmission Lines, Klickitat County, Washington
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0285-SA-194
Vegetation Management on the Paul Allston 230 kV and 500 kV Transmission Line Corridor, Lewis and Cowlitz Counties, Washington
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0285-SA-195
Vegetation Management for the Midway-Benton Transmission Line Corridor from Tower 11/7 to Tower 25/1, Benton County, Washington
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0285-SA-196
Vegetation Management for the Lancaster-Noxon 230 kV Transmission Lines Corridor, Sanders County, Montana
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0285-SA-197
Vegetation Management for the Lower Monumental-Hanford/Ashe-Hanford/Scooteney Tap Transmission Line, Benton County, Washington
(Decision: No further NEPA review required)
April 2004

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Recent EIS-Related Milestones (March 1 to May 31, 2004)

(Supplement Analyses, continued from previous page)

Watershed Management Program
(DOE/EIS-0265)

DOE/EIS-0265-SA-135
Idaho Model Watershed Habitat Projects – Muddy Springs/Pahsimeroi Fence, Custer County, Idaho
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0265-SA-136
Eliminate a Diversion along Morgan Creek, Provide Fish Screen, Remove Fish Barrier, Improve Irrigation System and Improve Water Quality, Custer County, Idaho
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0265-SA-137
Duck Valley Habitat Enhancement and Protection, Owyhee County, Idaho, and Elko County, Nevada
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0265-SA-138
Duck Valley Reservoirs Fisheries and Operation and Maintenance, Elko County, Nevada
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0265-SA-139
Idaho Model Watershed Habitat Projects – East Fork Riparian Enhancement, Garman Fence, Custer County, Idaho
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0265-SA-140
Burlington Bottoms Wildlife Mitigation Project –Water Control Structure and Culvert Replacement, Multnomah County, Oregon
(Decision: No further NEPA review required)
March 2004

DOE/EIS-0265-SA-141
Idaho Model Watershed Habitat Projects – Salmon River Enhancement, Sell Fence, Lemhi County, Idaho
(Decision: No further NEPA review required)
March 2004

Office of Civilian Radioactive Waste Management

Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada
(DOE/EIS-0250)

DOE/EIS-0250-SA-1
Supplement Analysis for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada [regarding intermodal transportation]
(Decision: No further NEPA review required)
March 2004

What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1B requires the Office of NEPA Policy and Compliance to solicit comments on lessons learned in the process of completing NEPA documents and distribute quarterly reports. This Quarterly Report covers documents completed between January 1 and March 31, 2004.

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

Scoping

What Worked

- *Internal scoping meetings*. An internal scoping meeting involving the participation of pertinent project personnel was held to provide essential information for the EA.
- *Establishing timeline early.* A realistic NEPA process timeline was established as early as possible and in-house strategy meetings among team players were organized.
- *Using past documents as an example.* The team relied largely on past documents that addressed similar proposals to move spent nuclear fuel from locations in other countries where it was poorly controlled.

Data Collection/Analysis

What Worked

- *Referencing related documents.* The preparation of the EA had no complications and was streamlined by referencing a relevant NEPA document.
- *Bounding analyses*. Many bounding analyses were used in the EIS with the expectation that the detailed planning and implementation would stay within those bounds.

What Didn't Work

- *Inexperienced contractor.* The EA team was working with a new DOE contractor. It took the contractor a while to get up to speed and to provide the team with some analysis of data.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Stakeholder interest.* Increasing interest by participating stakeholders and citizens kept us focused on prioritzing efforts and helped keep the document on schedule.
- *Attentive management.* The document manager played a central coordination role in relaying information requests between the EA writers and project personnel. He also ensured the draft EA review cycles were completed on time.
- *Keeping contact among team members*. A close working relationship between the managers and the EA writer prevented the schedule from slipping too much.
- *Continuous scheduling*. The EIS schedule was revised as appropriate to reflect changes in the program direction.
- *Teamwork*. Having a dedicated and experienced NEPA/ Project team (composed of headquarters, site, and contractor folks) to prepare and review the document at various stages, perform the technical analyses, and shepherd the EIS through the process facilitated timely completion of the EIS.
- *Beginning with a realistic schedule*. A schedule was created that included realistic expectations for the review and concurrence periods.

Factors that Inhibited Timely Completion of Documents

- *Responding to comments*. The response to internal draft comments sometimes generated additional comments, thus making the review cycles longer than expected.

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What Worked and Didn't Work

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- *Review and concurrence time*. The review and concurrence time at the headquarters level took up a major chunk of time even when the document moved through the process easily. There should be an effort to facilitate a more timely and coherent approval process at headquarters or a delegation of project specific EISs to the field level.
- *Difficulty obtaining data*. Due to difficulty in getting expected data from the contractor, the worker impact analysis was delayed.
- *Wide-ranging concurrence process*. Due to the cross-cutting interest in the subject, numerous organizations were involved in the concurrence process. The concurrence process was not well understood, so at times it was conducted inefficiently.

Teamwork

Factors that Facilitated Effective Teamwork

- *Maintaining open lines of communication*. The team used e-mail and frequent meetings to stay connected while focusing on the NEPA process strategy.
- *Keeping contractors in the loop*. Contractors were kept apprised of the NEPA progress, which enabled them to coordinate timing and other details with planning for project staging and construction.
- *Close working locations*. The physical proximity of the NCO, Document Manager, and legal support facilitated effective teamwork.
- *Informing contractors*. Contractor staff were involved in many meetings as technical support to the program, thereby, maintaining knowledge of program changes.
- *Cooperation.* An excellent start was achieved by having a kickoff meeting with the Document Manager and other DOE staff in EH and GC. The project's NEPA liaison maintained good communications among the EA contractor, EH, and GC.
- *Establishing a clear schedule.* Establishing a clear schedule and expectations during the scoping process enhanced the effectiveness of teamwork between DOE and the NEPA contractor.
- *Experience*. Having a team of experienced personnel greatly enhanced the EIS process. Having a focused program person to serve as "EIS shepherd" also enhanced the ability of the team to be successful.
- *Face-to-face meetings*. The contractor was within easy access to the site office so that meetings could be accomplished face-to-face. When holding meetings to hash through problems and reach important decisions it was more efficient for meetings to be held in person.
- *Dialogue*. The proposed action's complexity, forecast data inconsistencies, and work scope changes created a number of ongoing EIS challenges. Of critical importance in successfully addressing these were the DOE team's maintenance throughout the NEPA process of contacts and communications with both the regulators and the public.

Factors that Inhibited Effective Teamwork

- *Distance.* The distance between the DOE field offices involved in the EA inhibited effective teamwork at times.

Process

Successful Aspects of the Public Participation Process

- *A comprehensive mailing list*. A comprehensive mailing list was established in an effort to inform as many interested people as possible. The draft EA was offered either through hard copy in the mail or electronic mailing. Also, several points of contact were offered to the public to facilitate input to the NEPA process.
- *State coordination*. A NEPA liaison in the state's goverment office was consulted for comments on the draft EA.
- *Early announcements*. The early announcement of the EA during a Citizen Advisory Group monthly meeting proved to be a successful aspect of the public participation process.

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What Worked and Didn't Work

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Unsuccessful Aspects of the Public Participation Process

- *Unhappy public*. Public meetings of whatever format, arrangement, type, place, and so forth, are usually viewed as opportunities for the public to vent about their feelings regarding faults and failures with DOE and the subject project rather than the NEPA impact analyses and ways in which DOE could correct any identified deficiencies.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *Fully using the NEPA process*. DOE undertook the NEPA process to accommodate the need for an objective assessment, to assist in the decisionmaking, to withstand any possible legal challenges, and to satisfy the NEPA compliance and implementing procedures.

Enhancement / Protection of the Environment

- The NEPA process for this project ensured that environmental permit compliance and the "as low as reasonably achievable" principle were followed.

Other Issues

- One respondent noted that DOE should not engage into NEPA unless appropriate data and information to formulate decisions are first gathered; parameters about the project are well defined; commitments and resources are available to complete preparation of an objective, fact-finding document; and preparation of the NEPA document is first well planned out.

Guidance Needs

- One respondent noted that the guidance on public participation seems to reflect a more liberal application of the requirements than currently practiced in the Department. This created some confusion and need for interpretation/direction from the NEPA liaison and GC.
- One respondent noted that it would be useful to have guidance on how to develop an Addendum to a previously approved EA.
- One respondent noted that it would be a good idea to provide guidance to people about how to internally get through the NEPA process for EISs. Because there have been many retirements and will be more in the next ten years, it would be nice if future document preparers could be left with guidance about what they will need to do.

Effectiveness of the NEPA Process

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

For the past quarter, in which 4 questionnaire responses were received for EAs and 2 responses were received for EISs, 3 out of 6 respondents rated the NEPA process as "effective."

- A respondent who rated the process as "5" stated that "the NEPA document was prepared largely to spell out the project facts and predicted outcomes to assist in decisionmaking and accommodate the agency's requirements for NEPA decisionmaking."
- A respondent who rated the process as "4" stated that "the NEPA process helped make critical program decisions."
- A respondent who rated the process as "3" stated that "the EA helped clarify what was to be shipped off-site for final disposal."

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What Worked and Didn't Work

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- A respondent who rated the process as "3" stated that "as the NEPA process occurred in tandem with the Critical Decision 1 and 2 process in this case, it was somewhat effective in helping refine some of the planning process, but politics probably played a bigger role in the actual decisionmaking."
- A respondent who rated the process as "2" stated that the NEPA process "affects the planning of how work should be done to meet environmental, safety and health requirements."
- A respondent who rated the process as "1" stated that "the need to eliminate weapons-usable special nuclear materials is a key element to our national security. The proposed action was the result of a working group commissioned by presidents of the United States and Russia and was going to happen unless a large problem was identified." LL

NEPA Community Meeting: Getting Better and Better and Better and Better and Better...

Washington DC, July 20 and 21, 2004