

LESSONS LEARNED

U.S. DEPARTMENT OF ENERGY

QUARTERLY REPORT

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For Third Quarter FY 2001

NEPA Compliance Officers Consider Further Improvements

“What’s New, What’s Next,” was the theme of the Department of Energy (DOE) NEPA Compliance Officers (NCOs) meeting on June 13 and 14, 2001, in Washington, DC. Convened by the Office of NEPA Policy and Compliance, the meeting involved 70 participants including Program and Field Office NCOs, Headquarters NEPA attorneys, and others.

In welcoming participants, Carol Borgstrom, Director, Office of NEPA Policy and Compliance, recounted recent goals for DOE’s NEPA Compliance Program before considering new challenges. She noted that in the 1990s, the Department achieved significant improvements in the NEPA process through a series of reforms.

“What’s next?” she asked. “Can we make the NEPA process even cheaper, faster, and more useful? This Administration wants to streamline project approvals, especially for projects that increase energy supplies. How can DOE accomplish this while safeguarding the environmental values at the core of NEPA review, and without diminishing the public’s role or increasing litigation risks?”

CEQ NEPA Director: NEPA’s Goals Transcend Politics

The opening speaker, Horst Greczmiel, the Council on Environmental Quality’s (CEQ’s) Associate Director for NEPA Oversight, observed that making NEPA work better is CEQ’s overriding goal under any political administration. Under the leadership of James Connaughton, now confirmed as CEQ Chair, Mr. Greczmiel expects CEQ to emphasize environmental stewardship balanced with economic growth, enhanced opportunities for public participation, and collaboration and consensus building to resolve conflicts.

Mr. Greczmiel identified NEPA issues that are receiving increased attention from stakeholders and that agencies would do well to address:



Responding to NCO questions, CEQ’s Horst Greczmiel recommends the DOTS approach: Depends on the Situation. “CEQ guidance must serve NEPA but preserve the flexibility of over 85 diverse Federal agencies,” he said.

Cooperating agencies: He urged DOE to be sure to provide public participation opportunities for states, tribes, counties, and local governments with an interest in a proposed action. Mr. Greczmiel noted that Senate Bill 301 (the State and Local Agencies Involvement Act) would require agencies to invite state and local

governments to become cooperating agencies. CEQ would generally favor Federal agencies having discretion in selecting cooperating agencies, he said, but agencies will have to justify their decisions.

Mitigation commitments: Mr. Greczmiel pointed to increased public scrutiny of agency follow-through on monitoring and mitigation commitments. He noted that as agencies rely increasingly on mitigated findings of no significant impact (FONSIs), public concern that significant adverse impacts are not being adequately mitigated has increased. He advises agencies to have a method of monitoring the implementation and

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NCOs Consider Improvements (continued from page 1)

effectiveness of mitigation. [DOE's requirements under 10 CFR 1021.331, Mitigation Action Plans, serve this purpose.]

Invasive species: Mr. Greczmiel said that even before Executive Order 13112, Invasive Species (*Lessons Learned Quarterly Report*, March 1999, page 11), CEQ encouraged agencies to consider whether their actions contributed to environmental problems from introducing species that are not native to a region. He stated that the Invasive Species Council, working with CEQ, intends to issue guidance later this year on assessing impacts from nonnative and invasive species in the NEPA process.

Transboundary environmental impacts: Mr. Greczmiel said that CEQ is assisting in informal discussions with Mexico and Canada on approaches for environmental

review of transboundary actions. He said that states on both sides of the U.S.-Mexican border have agreed to provide for transboundary notifications of projects within 100 kilometers of the border.

Urban sprawl: Mr. Greczmiel noted that even agencies such as DOE that do not have direct jurisdiction regarding urban growth are affected as urban areas encroach on their formerly isolated facilities and agency actions may affect urban sprawl. He referred to proposed legislation that would require CEQ to review agency EISs to determine whether they have adequately considered urban sprawl as a direct, indirect, and cumulative impact. As thinking develops on this issue, Mr. Greczmiel predicted, it is likely that the "3Es" – environment, economics, and social equities – will be important in our relationships with communities.

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Inside LESSONS LEARNED

Welcome to the 28th quarterly report on lessons learned in the NEPA process. This completes our seventh year of providing performance metrics, news, and guidance to the DOE NEPA Community. Please note the cumulative index in this issue. We thank you for your continuing support of the Lessons Learned program.

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Carol Borgstrom

Director
Office of NEPA Policy and Compliance

Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions and contributed drafts for the *Lessons Learned Quarterly Report*. Draft articles for the next issue are requested by November 1, 2001. To propose an article for a future issue, contact Yardena Mansoor at yardena.mansoor@eh.doe.gov or 202-586-9326.

Quarterly Questionnaires Due November 1, 2001

Lessons Learned Questionnaires for NEPA documents completed during the fourth quarter of fiscal year 2001 (July 1 through September 30, 2001) should be submitted by November 1, but preferably as soon as possible after document completion. The Questionnaire is available interactively on the DOE NEPA Web at tis.eh.doe.gov/nepa/ under DOE NEPA Process Information. For Questionnaire issues, contact Vivian Bowie at vivian.bowie@eh.doe.gov or 202-586-1771.

Feedback on LLQR

Do you have a comment or a suggestion? Please submit feedback to either of the contacts listed above.

LLQR Online

Current and past issues of the *Lessons Learned Quarterly Report* are available on the DOE NEPA Web at tis.eh.doe.gov/nepa/ under DOE NEPA Process Information.

LLQR Index

A cumulative index of the LLQR is provided in the September issue each year.

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Focus on June 2001 NCO Meeting

Mr. Greczmiel responded to NCO questions on a broad range of NEPA topics:

- ✓ *Would it help to have “alternative arrangements” for an EA in an emergency?* Yes, agencies may want to cover such situations in their NEPA implementing procedures. As CEQ’s alternative arrangements (40 CFR 1506.11) apply to emergency actions with potentially significant impacts, CEQ would not be involved in an action that would be reviewed under an EA or categorical exclusion. [See the discussion of DOE’s emergency NEPA procedures for response to the Los Alamos (Cerro Grande) wildfire on next page.]
- ✓ *Would siting new power plants in California qualify as emergencies (under 40 CFR 1506.11) for reducing the EIS comment periods specified in the CEQ regulations?* Requests to shorten EIS comment periods should be discussed with CEQ and EPA on a case-by-case basis.
- ✓ *Is CEQ focusing on public perception of risk as an impact type in NEPA documents?* The Supreme Court has held that NEPA does not require consideration of potential damages based on risk perceptions **unconnected** to physical impacts to the environment.¹
- ✓ *Will CEQ’s “40 Most Asked Questions” be revised?* NCOs should give any suggestions on needed enhancements to CEQ guidance to Carol Borgstrom, who will forward them to CEQ. Answers to some questions – use of mitigation to support a FONSI (number 40), for example – no longer reflect NEPA practice and will be updated.
- ✓ *Could an EA be sufficient for a proposed action for which impacts appear to be solely beneficial, even though potentially significant?* Impacts, like beauty, are in the eye of the beholder. Not everyone may consider the impacts purely beneficial, and several courts have determined that NEPA review is necessary in cases where agencies claimed significant impacts were purely beneficial.
- ✓ *In setting the scope of review, how far does an agency need to go in assessing the impacts of applicant actions that require a Federal permit?* DOTS – depends on the situation. NEPA gives an agency substantial discretion to scope its NEPA analysis based on its statutory authority, including, for example, whether an agency can control the actions of permit applicants.

Improving Federal/State/Tribal Coordination

In a discussion led by Betty Nolan, Senior Advisor, Congressional and Intergovernmental Affairs, four members of DOE’s NEPA Community provided perspectives on intergovernmental coordination. Ms. Nolan advised NCOs to use the statement of purpose and need as an early coordination tool, because reaching agreement on it before the public scoping period helps smooth the NEPA process. “Instead of waiting until just before the first public meeting,” she said, “reach out and ask the states and tribes if they will work with you.”



Betty Nolan (center) advises NCOs that “Coordination comes down to good communication – meaning plain language and common courtesy.” Charles Alton (left), Bonneville Power Administration, and Nancy Johnson (right), Fossil Energy, also participated in the panel on intergovernmental coordination.

Panelists described their Offices’ NEPA activities with extensive or unique intergovernmental coordination challenges:

Nancy Johnson, Director, Planning and Environmental Analysis, Office of Natural Gas and Petroleum Technology, based her remarks on the Office of Fossil Energy’s interactions with other agencies on their NEPA reviews concerning oil and gas supplies. To lay the groundwork for collaboration, she advises working with cooperating agencies to identify any differences in interpretation of requirements and to then establish procedures acceptable to all. “It all comes down to

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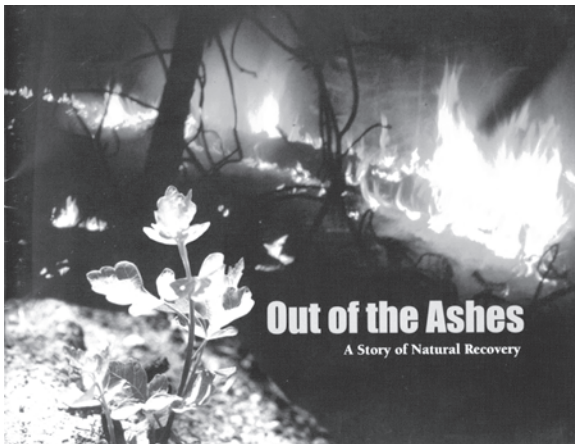
¹ The Nuclear Regulatory Commission decided not to prepare an EIS on the restart of the undamaged reactor at Three Mile Island; People Against Nuclear Energy claimed that an EIS was needed to address severe psychological health damage to area residents. Metropolitan Edison Co. v. People Against Nuclear Energy (PANE). 460 U.S. 766, 103 S.Ct. 1556 (1983).

One Forest Is Recovering; Another Is Preserved

NCOs do not just manage their Field or Program Office's NEPA efforts. They and their associates in the DOE NEPA Community also express, often with eloquence and emotion, the environmental consciousness of DOE and its communities – as exemplified by presentations on the May 2000 wildfire near Los Alamos National Laboratory (LANL) and the natural history of DOE's Germantown campus.

Recovering from the Los Alamos (Cerro Grande) Wildfire

In introducing the session on the Los Alamos wildfire, Carl Sykes, formerly of the Los Alamos Area Office and a resident of nearby White Rock (and now with the Office of NEPA Policy and Compliance), described his experience in evacuating his family to Santa Fe a few hours ahead of the evacuation order.



"Knowing your site-wide EIS helps you escape wildfires," he observed, referring to the 1999 site-wide final EIS for the Los Alamos National Laboratory (DOE/EIS-0238), in which DOE prophetically analyzed an uncontrolled wildfire scenario that was uncannily similar to the fire that occurred a few months later. (See *Lessons Learned Quarterly Report*, June 2000, page 1, on the fire, mitigation, and EIS, and September 2000, page 1, on the CEQ consultations and emergency actions.) He recounted how his familiarity with the EIS helped him to quickly recognize the seriousness of the situation and avoid the traffic congestion (and scarcity of lodging) that started soon after.

Diana Webb, LANL Ecology Group Leader, described the coordinated emergency activities by DOE, agencies of the Departments of the Interior and Agriculture, the State of New Mexico, Los Alamos County, and Santa Clara and San Ildefonso Pueblos. She told how, after a non-coordinated response to the last severe wildfire in 1996, they had formed an interagency wildfire working group that has met every two weeks for five years and fought four subsequent fires. As a result, she emphasized, the Cerro Grande response effort benefited from their mutual trust, communication, and experience. Ms. Webb noted that it was a triumph that no human life was lost, but the toll was nonetheless immense: 400 homes burned, 12,000 people evacuated via one road, personal treasures lost, families dispersed, and 70 square miles of forest burned. Ms. Webb's observations are included in *The Cerro Grande Fire, Los Alamos, New Mexico*, available online at www.esh.lanl.gov/~esh20 under Cerro Grande Recovery Information.

Fire Ecologist Teralene Foxx (retired from LANL) discussed the process of ecological recovery from wildfire, and distributed the booklet she wrote, illustrated, and photographed: *Out of the Ashes: A Story of Natural Recovery* (LALP-01-201; September 2000). After a fire, she explained, a burned area supports a succession of plant communities and the animals that use the plants for food and habitat. The succession is a natural process, though one that can be and often is assisted by environmental rehabilitation activities, such as erosion control and seeding.

"Our mountain will survive longer than we will.... We... can predict only a mere 25 years, knowing that it will take far longer than our lifetimes to see the mountain covered with forests again.... Only the mountain will survive long enough to see all the changes and their impact on future generations."

LANL NCO Elizabeth Withers, notified as soon as the fire started, recounted how she spent most of the next weeks working in the emergency operations center and at home. Within a day of recognizing that the fire was out of control, she started working with other agencies on environmental compliance; in three days, she realized that consultation with CEQ on emergency NEPA procedures would be needed. "Emergency consultation with CEQ is no less effort than normal NEPA review," she reported. "It just gets emergency actions underway sooner."

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One Forest Is Recovering; Another Is Preserved (continued)

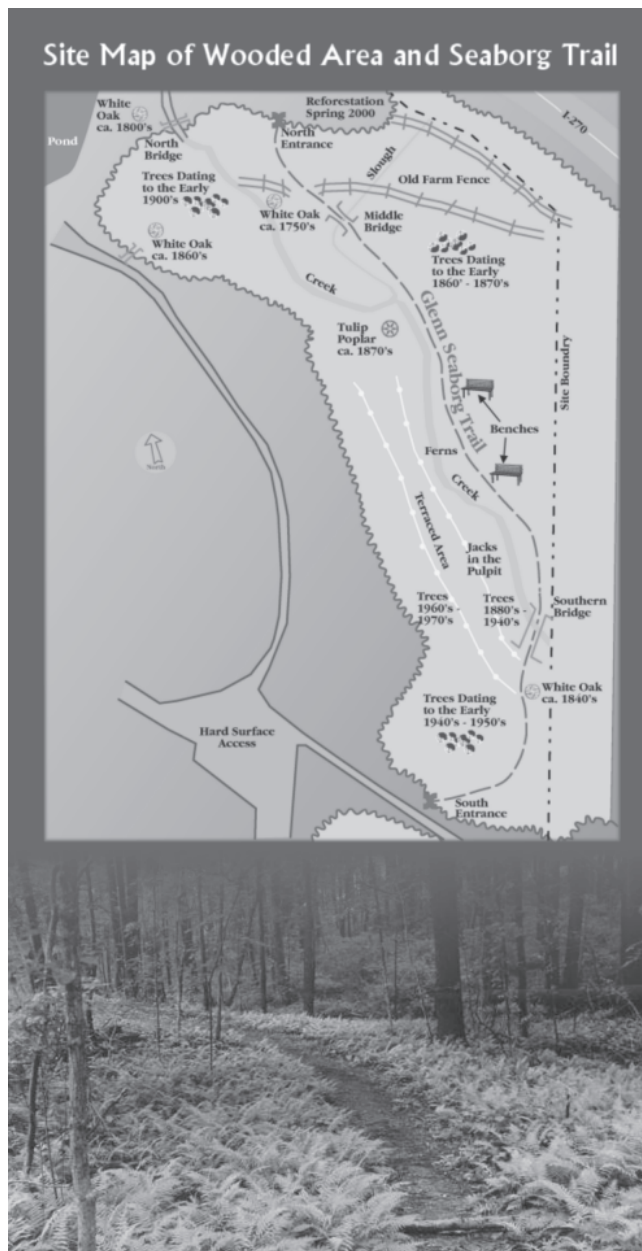
Ms. Withers explained how, in accordance with the alternative NEPA arrangements that DOE and CEQ agreed upon, the Los Alamos Area Office issued a Special Environmental Analysis (DOE/SEA-03) in September 2000 for emergency activities conducted at LANL during and after the fire to protect life, property, and the environment. The SEA documents the emergency actions taken, their associated impacts and mitigation measures, and cumulative impacts. Unlike an EIS, Ms. Withers explained, the SEA does not analyze alternative actions and DOE did not issue a record of decision based on the analysis. DOE fulfilled its last obligation under the alternative arrangements in June 2001 by providing CEQ with a report on lessons learned from preparing the SEA: that a public involvement process is beneficial in the absence of the normal NEPA process, and that the SEA provides a way to document actions taken and serves as a starting point for analyzing future activities. Beginning in January 2002, she said, DOE will issue an annual mitigation report until all actions have been completed.

History and Natural History of DOE's Germantown Campus

Office of Science NCO Clarence Hickey described his studies last summer of the human and natural history of the 100-acre DOE Headquarters campus in Germantown, Maryland, which includes a pond, stream, and a 200-year-old forested area with a trail established by Glenn Seaborg, Nobel Laureate and Atomic Energy Commission Chairman. Mr. Hickey undertook the studies to help DOE employees better understand their work environment and enhance their sense of place. "Many who work at DOE Headquarters have no knowledge of the forest or the pond, who Glenn Seaborg was, and why the Germantown site is there." (See www-ia1.lbl.gov/Seaborg/start.cfm.)

Mr. Hickey worked with DOE historian, Dr. Marie Hallion, and a college student intern to research photographic archives and survey the plants on the site. The results are published in two brochures and a natural history report that are available on the Office of Science Web site (www.science.doe.gov/production/er-80), which also provides a virtual walk along the Seaborg Trail.

Mr. Hickey leads guided tours along the Seaborg Trail that relate the human and natural history of the site. To arrange a tour or for more information, contact Mr. Hickey at clarence.hickey@science.doe.gov. 



The Office of Science Web site provides a site map and photos of the Seaborg Trail, for example, of the ferns surrounding the Trail.

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people,” she said. “Creative, dedicated people are the best insurance for a strong NEPA process.” In addition to procedural cooperation, she urges DOE to support a common information base – for example, by providing a geographic information system, data, and methodology to cooperating agencies. She reminded the NCOs that if a collaborative relationship has been established, good ideas can endure even when changes in priorities cause a planned project to be terminated. “Agencies do care,” she observed, “even about environmental matters outside their jurisdiction.”

Charles Alton and Kathy Pierce, Document Managers for the Bonneville Power Administration’s (BPA) Fish and Wildlife Implementation Plan EIS, described how BPA integrated the views of nine Federal agencies, four states, 50 tribes, and many additional stakeholders in preparing a policy-level EIS for recovery of fish and wildlife in the Northwest. Because BPA funds more than half of the recovery efforts in that region, BPA has taken a lead role in the environmental evaluation through the NEPA process. (See *Lessons Learned Quarterly Report*, June 2001, page 6.) Among the techniques they said helped BPA manage this EIS are: acknowledging the political nature of the decision making processes for all participating organizations, controlling document length by incorporating 15,000 pages by reference, and – in early meetings with other agencies and stakeholders – explicitly asking those involved to consider other parties’ positions. Mr. Alton said, “The process through NEPA has very much been ‘show me how the big picture fits together.’”



Dan Sullivan, NCO and NEPA Document Manager, described the flexible NEPA strategy for the Decontamination EIS at West Valley.

Dan Sullivan, NCO and NEPA Document Manager for the West Valley Demonstration Project Decontamination and Waste Management EIS, described the NEPA strategy to separate (that is, appropriately segment) the NEPA review for decontamination of DOE’s facilities at the West Valley site from NEPA review for site decommissioning. DOE intends to prepare a second EIS to address decommissioning with

the State of New York as a joint lead agency. He explained that this separation will allow DOE decision making to proceed on cleanup actions that are needed now, regardless of the later decisions concerning decommissioning that would be made only after difficult political, legal, and policy issues are resolved. Mr. Sullivan pointed to the flexibility of the NEPA process in allowing rescoping of a 1996 draft EIS that had analyzed both near-term (i.e., decontamination) and long-term (i.e., decommissioning) site management alternatives, but that had been stalled since then.

Robin Sweeney, NCO for the Yucca Mountain Site Characterization Office, shared her observations on working with tribes on the NEPA review for the proposed geologic repository for high-level radioactive waste and spent nuclear fuel. She explained that Native Americans living in areas near Yucca Mountain have concerns about protecting the traditional uses and spiritual integrity of the land and restricting access to the site. Accordingly, DOE facilitated early interaction with the tribes, instead of waiting to solicit their comments on the draft EIS. A tribal working group prepared a statement of tribal perspectives on the proposed repository, which was included in the draft EIS as an opposing view. (For more information, see *Lessons Learned Quarterly Report*, June 2001, page 1.)



Robin Sweeney, NCO for the Yucca Mountain Site Characterization Office, explained how her office is incorporating the views of Native Americans in the EIS for the proposed geologic repository.

Betty Nolan concluded the session by observing that a strategy of challenging the NEPA process sometimes appeals to those who cannot successfully challenge the agency on the substance of an action. “Don’t get ‘caught up’ in the disputes over process, but focus on preparing a good impact analysis and respecting the procedural requirements of NEPA,” she advised. “The key is communication.”

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The View from EPA

Anne Miller, Acting Director of the EPA's Office of Federal Activities, opened the second day of the NCO meeting by



Anne Miller, EPA Office of Federal Activities, says, "Now is the time to apply the S word [streamlining]."

discussing EPA's approach to streamlining, which other agencies are emphasizing in their NEPA processes for highways, airports, mining, and grazing projects. Now is the time to apply "the S word" (streamlining) to energy projects. She advised NCOs that the best way to facilitate streamlining is to start NEPA review early and get all parties, including

EPA, involved early. In that regard, she recommended that NCOs get to know their EPA reviewers (related article in *Lessons Learned Quarterly Report*, December 2000, page 3), saying that although budget limitations may keep EPA staff from scoping meetings, agencies could fund EPA participation if desired. She challenged DOE to describe the Department's often highly complex technical proposals in commonly understood language. Ms. Miller also answered questions concerning EISs:

- ✓ *On EPA's system of rating draft EISs:* EPA procedures state that a rating is to be based on the preferred alternative if identified, and otherwise all alternatives are rated, with the rating of record being the rating on the environmentally worst alternative. DOE should expect that most of its projects will be rated Environmental Concerns (EC), as the Lack of Objection (LO) rating is unlikely for a complex project where the impacts may not be "significant" but could be further mitigated. It is the Environmental Objection (EO) rating that denotes serious problems. [EPA ratings are reported for DOE EISs listed in each issue of *Lessons Learned*; in this issue, see page 21.]
- ✓ *On the disposition of the five copies of a filed EIS:* Copies are given to CEQ, a microfiche service, Northwestern University Library, EPA archives, and the EPA Headquarters Liaison for the lead agency.
- ✓ *On the justifications for EPA to allow an agency to reduce minimum comment periods per 40 CFR 1506.10(d):* The CEQ regulations specify that EPA may reduce the minimum 45-day comment period on a

draft EIS and 30-day period between issuing a final EIS and making a decision upon the agency showing compelling reasons of national policy. "There's an energy crisis and the President is very worried" is not a compelling reason. Recent waivers have involved situations in which an agency's regulations would have expired and left a resource vulnerable to excessive harvesting, and one with potential for armed conflict over fishing rights. When an agency requests a waiver, EPA wants to know what will happen if the record of decision date slips.

Streamlining Approvals of Energy Projects: Views from Other Agencies

Before introducing three NEPA officials from other Federal agencies to describe their organizations' approaches to streamlining the NEPA process, Carol Borgstrom reviewed the National Energy Policy and associated Executive Orders. (See article on Executive Order 13212, page 16, this issue, and also *Lessons Learned Quarterly Report*, June 2001, page 12.) Noting that the Policy emphasizes balancing environmental concerns with energy needs, she asked what DOE can learn from other agencies' experiences.

Richard Hoffmann, Leader, Gas Group 2, Office of Energy Projects, Federal Energy Regulatory Commission (FERC), discussed potential streamlining of NEPA review for gas pipeline permits requested by industry. Noting that streamlining has been an industry objective for at least 25 years, he advocates conducting NEPA review at the same time or before other administrative processes. Based on recent seminars with stakeholders, he says that FERC now believes it could reduce the Commission's process time by working with an applicant before an application is filed, when the applicant is selecting a gas pipeline route. Because FERC would get involved while the applicant is choosing its preferred route, FERC could



Richard Hoffmann, Gas Group 2, Office of Energy Projects, FERC, advocates outreach to stakeholders.

independently evaluate all alternative routes and issue a draft EIS sooner after receiving a permit application than

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Focus on June 2001 NCO Meeting

has been possible in the past. Mr. Hoffmann described outreach seminars that FERC is now conducting for industry, agency, and individual stakeholders in regions with pipeline experience, to hear their views concerning public participation in the NEPA review and other decision making processes. (Also see the article by Mr. Hoffmann on page 12 of this issue.)

Rhey Solomon, NEPA Group Leader of the Forest Service, which prepares more EISs than any other agency, described approaches he believes have the greatest potential for streamlining NEPA reviews. He said that the Forest Service initially focused on standardizing technical tools, such as document format templates and text sections. Although modest improvements were evident, he came to realize that the greatest potential results would come only by having senior managers show, through their actions, that environmental review is a priority (e.g., by assigning good people to each NEPA review). He believes

the final priorities for Forest Service streamlining are to promote meaningful environmental leadership – not just “talking the talk” – among the project managers who prepare the NEPA documents and to provide training to all involved in the NEPA process.

Wells Burgess, Assistant Section Chief, General Litigation Section of the Environment and Natural Resources Division, Department of Justice, provided the perspectives of the Office that litigates DOE’s largely high-profile NEPA cases. Noting how litigation can disrupt an agency’s work and put staff on the defensive, he recommends avoiding litigation, not just making it winnable. His recommendations include:

- ✓ Document application of a CX with a checklist that requires noting the presence or absence of extraordinary circumstances.

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NEPA Pilot Projects to Demonstrate Environmental Mediation

Dr. Kirk Emerson, Director of the U.S. Institute for Environmental Conflict Resolution, spoke on the Institute’s environmental mediation work to resolve disputes concerning, for example, allocation of scarce water resources and competing interests of grazing, forestry, and preservation of western Federal lands. As she explained, the Institute maintains a national roster of professional mediators and facilitators, and helps parties develop processes for reaching agreement over both procedural and substantive conflicts. At the time of the NCO meeting, the Institute was conducting a series of workshops (including one in Washington, DC) to discuss how to improve NEPA implementation through collaboration and conflict resolution processes. (The Institute’s NEPA Pilot Project proposal is described in *Lessons Learned Quarterly Report*, June 2001, page 9.)



Dr. Kirk Emerson discussed her Institute’s NEPA Pilot Project proposal.

Meeting participants addressed questions and comments to Dr. Emerson:

- ✓ *Has there been a great deal of noncooperation to give rise to this study?* Much of the focus of the pilot

project is on land management issues, which are of high concern in the West but also in the Florida Everglades and Northeast forests. She noted that the Institute aims not just to enhance cooperation, but also to link NEPA implementation to the goals of its Section 101 and focus less on procedures, documentation, and building legal defensibility. Steve Ferguson, Deputy Assistant General Counsel for Environment, observed that a good NEPA document can help build consensus, rather than provide people a means to block an unpopular decision on procedural grounds.

- ✓ *Can environmental mediation be applied to a “yes-no” decision on a project?* Conflict resolution is not very useful in this situation, though it may be applied to determining purpose and need. Don’t besmirch the good name of consensus building by trying to force these processes into unsuitable situations. If there are issues of legal interpretation, they should go to court, not to environmental mediation.
- ✓ *Sometimes our problem is credibility. We tell a good story but nobody believes it because we are DOE. It would help to have independent third parties tell the story, to help convince project opponents that what we are doing is rational.* Many agencies deal with endemic public mistrust. There is value in using neutral third parties, but they cannot become the agency’s advocates.

It's Working: DOE-wide NEPA Contracting




David Gallegos described the strengths and successes of the DOE-wide NEPA contracts.

than half of the tasks – by number issued and value – are firm fixed price or cost plus incentive fee, the preferred

David Gallegos, Contract Administrator, Albuquerque Operations Office, reviewed four years of experience with the DOE-wide NEPA contracts, concluding that, overall, the contracts have been successful in providing contractor support on short notice, incentives to control cost, and flexibility in establishing tasks. Setting up a task order now takes about 25 days, compared to 6 to 12 months to establish a traditional contract. More

mechanisms for cost control. Contractor performance evaluations have been high, especially in the area of responsiveness.

Mr. Gallegos presented a detailed comparison of the DOE-wide NEPA contracts and similar contracts established in 1999 by the Government Services Administration (GSA), recommending that NCOs and NEPA Document Managers consider both sets of contracts when planning for NEPA document preparation. The GSA contracts can count toward DOE's small business goals, provide additional services besides NEPA support, and provide access to additional contractors. He cautioned, however, that they do not allow the cost plus incentive fee type of contracts that DOE often needs, cannot be modified, and may be limited to tasks of less than \$1 million. Noting that the DOE-wide contracts are entering their final year, he invited feedback on how we can improve the recompeted contracts. For further information, contact David Gallegos at dgallegos@doeal.gov. 

Can We Do Better? Potential Improvements in Preparing EAs and EISs

Representatives for the three DOE-wide contracts – Lucy Swartz of Battelle Memorial Institute, Barry Smith of Science Applications International Corporation, and Tom Magette of Tetra Tech, Inc. – advised the NCOs on how DOE could improve its implementation of the DOE-wide NEPA contracts and obtain better results – faster, cheaper, better quality NEPA documents.

Ordering a Task

- Make the Request for Proposals for tasks simpler and shorter, for example, by not repeating requirements from the contract statement of work.
- Specify the task statement of work as much as possible, including, for example, the number of review cycles and the printing requirements, especially for firm fixed price task orders.
- Give bidders more flexibility in setting labor categories.
- Standardize the format for proposals.
- Establish page and time limits to control proposal preparation costs (contractors differed on how long to allow for proposal preparation).
- Issue more noncompetitive task awards based on past performance, as proposal preparation takes time and money.
- Ask for a management plan in task proposals, not as a deliverable.

Managing a Task

- Develop the proposed action and alternatives, including the no action alternative, early through internal scoping.
- Communicate more, especially by specifying DOE's wants and needs early in the document preparation phase.

- Strive for shorter NEPA documents, put technical material in appendices, and incorporate information by reference.

Reviewing a Draft Document

- Make sure each review comment adds value to the document.
- Keep your function in mind to avoid duplicative or contradictory instructions and make reviews more cost-effective.

Making the Process Collaborative

- Have the DOE document manager and contractor program manager work together "hands on" in document preparation; encourage a close working relationship between them and facilitate communication.
- Use a Web site to distribute information quickly internally.
- After each EIS, have contractors document and share lessons learned focused on team activities; fund this through the contract or as a shared cost.
- Have Program, Counsel, and EH staff participate in evaluating the contractor.

Focus on June 2001 NCO Meeting

NCO Meeting: Other Agencies Streamlining (continued from page 8)



Wells Burgess, Department of Justice, provided perspectives on NEPA litigation.

✓ In an EIS, evaluate an alternative proposed by a significant stakeholder group as fully as other alternatives – even if it does not meet the stated purpose and need or is not reasonable – and candidly explain why the alternative is unsuitable and why it is being considered anyway.

non-involved workers, indirect effects, and ecological effects. The presentation included an explanation of the necessary differences between the accident analysis in a NEPA review and a safety analysis review, including differing purposes, timing, degree of conservatism, and scope. The guidance will continue to use radiation risk factors established by cognizant agencies, and the presenters reminded the NCOs that dose is not an impact. The Office is responding to the NCO comments and plans to issue the final guidance after final coordination with the commentors. On an interim basis while the guidance is being revised to reflect comment resolution, clarification, and formatting, NEPA document preparers should continue to follow the draft guidance. Contact Eric Cohen at eric.cohen@eh.doe.gov or Carl Sykes at carl.sykes@eh.doe.gov.

Guidance and Regulations Updates


Katherine Nakata, Office of NEPA Policy and Compliance, and Dean Monroe, Office of the General Counsel for Environment, described draft revisions to DOE's Floodplain/Wetlands Regulations (10 CFR Part 1022). They explained that the draft revisions would streamline DOE's review process by adding classes of actions exempt from assessment and eliminating the need to publish *Federal Register* notices for actions with only local impacts. The Office is now responding to NCO comments on the draft revisions, and plans to issue the proposed regulations for public review after conducting a Departmental coordination process. For questions, contact Katherine Nakata at katherine.nakata@eh.doe.gov or Dean Monroe at dean.monroe@hq.doe.gov.

Eric Cohen and Carl Sykes of the NEPA Office reported on progress in issuing final guidance on accident analysis in DOE NEPA documents. Issued as a draft in April 2000, this guidance offers approaches to meeting the existing analysis requirements of NEPA and the CEQ implementing regulations, including effects on involved and

Stan Lichtman, Deputy Director of the Office of NEPA Policy and Compliance, thanked NCOs for suggesting revisions to the DOE NEPA Regulations (10 CFR Part 1021), including those for modifying and adding categorical exclusions, in response to last year's request. He explained that although the suggestions to date would not warrant the resource commitment for undertaking a rulemaking, they will be saved for future consideration and additional suggestions are encouraged. Contact Stanley Lichtman at stanley.lichtman@eh.doe.gov.

Suggestion for Further Improvements

The NCO meeting open discussion sessions yielded a proposal by Clarence Hickey, Office of Science, and Raj Sharma, Office of Nuclear Energy, Science and Technology, to consider, through a process improvement evaluation, how to streamline the Headquarters review and approval process for EISs. Several NCOs volunteered to assist in this undertaking.

Overall, the meeting identified challenges, opportunities, and techniques for further improving the Department's NEPA implementation. The renewed focus on streamlining, especially for energy projects, fits well with the DOE's NEPA compliance program's emphasis on continuing improvement. 

16th Edition of NEPA Stakeholders Directory Issued

The Office of NEPA Policy and Compliance issued an updated *Directory of Potential Stakeholders for DOE Actions under NEPA* in July 2001. The Directory is available on the DOE NEPA Web at tis.eh.doe.gov/nepa/ under DOE NEPA Tools or from Katherine Nakata at katherine.nakata@eh.doe.gov.

NCO Transitions

Narendra Mathur has replaced Alan Brownstein as the NCO for the Office of Civilian Radioactive Waste Management. He may be reached at narendra.mathur@rw.doe.gov or 202-586-4929.

Executive Order Promotes Protection of Migratory Birds

NEPA Review Should Consider Impacts



"During the past 30 years, about one-fifth of the bird species native to the United States have declined at rates equal to or exceeding 2.5 percent per year. A trend of this magnitude represents a cumulative decline of more than 50 percent over a span of 30 years. Declines this large are considered to be biologically meaningful, even for species that are widely distributed and relatively abundant. These losses are not restricted to just one or two groups of birds; birds of grassland, wetland, scrubland, and woodland habitats have all been affected."

*Fish and Wildlife Service
Press Release, January 11, 2001*



Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds (66 FR 3853; January 17, 2001), requires Federal agencies – within existing budgets, missions, and responsibilities – to avoid or minimize the negative impact of their actions on migratory birds. Agencies must take active steps to protect birds and their habitat, for example by restoring and enhancing habitat, preventing or abating pollution affecting birds, and incorporating migratory bird conservation into agency planning processes.

Within two years each Federal agency taking actions that have, or are likely to have, a measurable negative impact on migratory bird populations must develop and implement a Memorandum of Understanding (MOU) with the U.S. Fish and Wildlife Service (USFWS) for the conservation of migratory bird populations. The USFWS, in cooperation with these Federal agencies, will develop a schedule for completion of these agreements that gives priority to agencies with the greatest impacts.

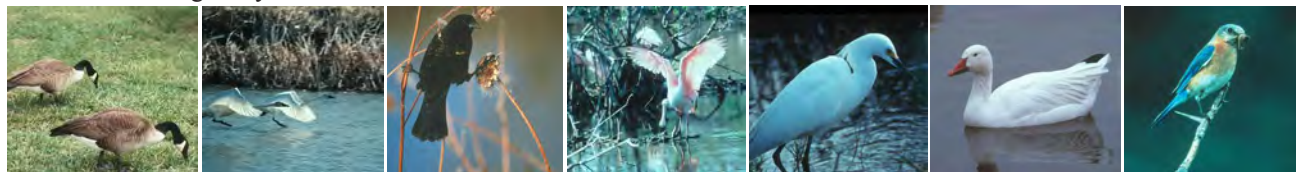
The Executive Order also:

- Establishes a Council for the Conservation of Migratory Birds composed of administrators from the Departments of the Interior, Commerce, Agriculture, Transportation, and Defense, and the Environmental Protection Agency. The Council's purpose is to assist agencies in implementing the order and to act as a clearinghouse to share migratory bird information.
- Directs agencies to ensure that environmental analyses under NEPA evaluate the effects of proposed Federal actions on migratory birds.

- Requires agencies, within the scope of their regular activities, to control the spread and establishment in the wild of exotic animals and plants that may harm migratory birds and their habitat.
- Requires agencies to provide advance notice of any action that may result in the taking of migratory birds, or to report annually to the Fish and Wildlife Service on the numbers of each species taken during the conduct of any agency action and avoid the taking of species of particular concern.

The USFWS is proceeding with implementation of the Executive Order. Representatives of 22 potentially affected Federal agencies, including DOE, met on June 28, 2001, to develop a timetable and framework for MOU negotiations. Each agency representative was assigned a USFWS partner and was tasked with developing an MOU between their agency and USFWS. Initial drafts are due by February 2002, and completed MOUs are scheduled for December 2002.

For more information on this Executive Order, contact Chris Tollefson, Office of Public Affairs, U.S. Fish and Wildlife Service, at chris_tollefson@fws.gov or 202-208-5634. For more information on DOE activities with respect to migratory bird protection and DOE's actions with respect to this Executive Order, contact Lee Banicki, DOE Office of Environmental Policy and Guidance, at leroy.banicki@eh.doe.gov or 202-586-5193. ■■



Executive Order 13186 protects species of migratory birds listed in 50 CFR 10.13, including endangered species like the northern spotted owl (above left), as well as more familiar birds like the northern cardinal (above right), and (bottom left to right) the Canada goose, trumpeter swan, red-winged blackbird, roseate spoonbill, snowy egret, snow goose, Eastern bluebird, and more than 870 others.

FERC Outreach Seeks Win-Win Streamlining for Natural Gas Pipeline Approvals

By: Richard Hoffmann, *Leader, Gas Group 2, FERC Office of Energy Projects*
Jeanie Loving, *DOE Office of NEPA Policy and Compliance*

Early public participation in project planning could help streamline NEPA reviews of natural gas pipeline proposals and benefit industrial applicants, landowners, and other stakeholders. This finding results from exploratory seminars the Federal Regulatory Energy Commission (FERC) held with pipeline companies, government agencies, and the public on FERC's pipeline certification (i.e., approval) process.

A Decade of Modernization

FERC's mission includes approval of the location and construction of interstate natural gas pipelines and the associated facilities that move nearly one-fourth of the nation's energy resources among the 48 contiguous United States. Over the past decade, the Commission has substantially streamlined its process for granting pipeline project approvals, even with increasing demands for natural gas and the highly competitive and changing markets those demands stimulate. Since 1991, FERC has reduced the total time for reviewing and approving gas pipeline applications by about one-third.

Notwithstanding this improvement, the Commission found that the growing complexity of major pipeline projects was often causing delays in its environmental and non-environmental reviews, and protests and interventions were increasingly requiring FERC to resolve issues. Accordingly, the Commission recently focused on its NEPA reviews of pipeline applications, which are a significant element of the certification process, both in terms of the time required to conduct the reviews and the value they add.

The Way Things Are

Pipeline companies work fairly independently to identify proposed routes and develop project plans before filing with the Commission for approval. Landowners typically first learn about pipeline projects from the industry applicants on an informal basis, when the companies conduct surveys. In addition, FERC requires companies to formally notify landowners at about the same time FERC issues a Notice of Application in the *Federal Register*. But by then, the application includes the proposed route and alternatives that are subject to FERC's NEPA reviews. In essence, the scope of the review has already been identified.

Coming Together

In a six-meeting series of seminars focusing on NEPA review for certification, the Commission has sought cooperative dialogue among representatives from the industry, general public, and cognizant local, state and Federal agencies. FERC's Gas Outreach Team held the first four meetings as "brainstorming" seminars in regions where interstate natural gas markets are developing or expanding: New York, Illinois, Florida, and Washington.

The overarching theme in the seminars was to identify the general interest in and desirability of bringing gas pipeline companies together with potentially affected people and interested organizations well before the companies file their applications with the Commission. Although each seminar built on the information gathered in preceding meetings, FERC maintained consistent objectives throughout the series:

- Explore ways for affected parties to work together to resolve issues before an application is filed with the Commission,
- Foster creative issue resolution, and
- Develop a toolbox of methods for achieving more effective stakeholder involvement and higher quality applications.

Feedback from the seminars supports the view that early public involvement can go a long way toward achieving an acceptable project design while avoiding conflicts over routes that have typically arisen later in the approval process. This in turn can reduce the time FERC needs for review, resolving issues, and final certification. In other words, this win-win approach can help build consensus with landowners and other community elements, reduce corporate application costs, and moderate resource demands on FERC and other involved agencies.

The Way of the Future

The Gas Outreach Team has compiled early seminar discussion results into sets of practical action options for each of the major participating groups. The Team has

continued on next page

FERC Outreach (continued from previous page)


been gathering comments on these options, including those from a fifth seminar held in July in New Hampshire. The kinds of actions being considered include:

- ✓ *Pipeline Companies* – recognize the benefit to the company of early public involvement and commit to it; develop a multifaceted grass roots strategy for informing landowners, agencies, and other involved individuals at the earliest possible stage of project planning; train land agents and other company representatives to communicate well with landowners; be prepared to explain the need for the project, landowners' rights, mitigation, and compensation; when people are upset, find out what they are upset about.
- ✓ *Cognizant Agencies* – identify whether there are local or state requirements for public notification and hearings; establish early coordination and public participation procedures; identify and communicate "show stoppers," such as local codes or regulations that conflict with FERC routing criteria; identify cumulative effects, including those from other development projects in the vicinity of the proposed pipeline.
- ✓ *Citizens* – seek information; recognize what information the companies must provide and what they may withhold as proprietary; understand how the local government can work for individuals or groups;

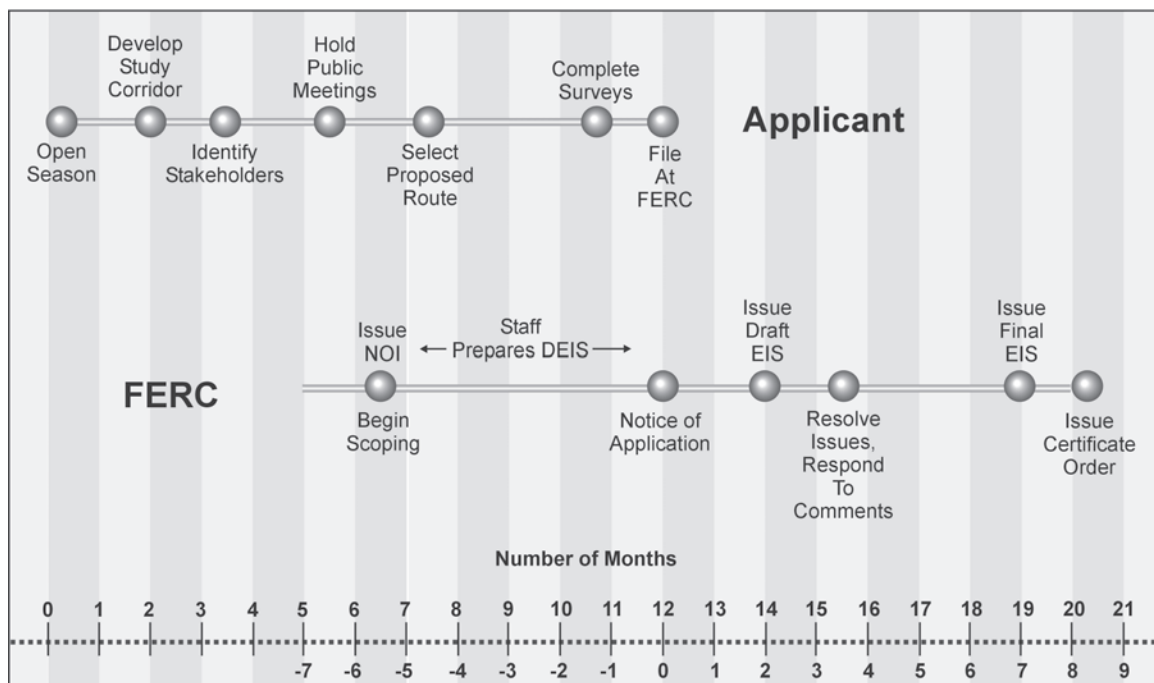
understand the concept of eminent domain; know the name and phone number of the supervisor for the company's land agent.

- ✓ *FERC* – improve the quality and range of relevant information and its distribution; offer training for industry and consultants on environmental aspects of the filing requirements and compliance with environmental requirements during construction; make staff available for interagency coordination meetings where possible; provide staff in the field to help achieve consensus in route planning at the earliest possible point.

The Gas Outreach Team plans to present a final draft report at its sixth seminar, planned for September at FERC Headquarters in Washington, DC. The report will present the best practices identified from each set of action options. FERC expects this approach to improve its certification process such that EISs can begin before applicants file for approval and be completed as soon as seven months after they file. This result will be heavily dependent on successful pre-application involvement of stakeholders.

For updated information on FERC's next seminar, visit www.ferc.gov. For more information on the seminar series, contact Richard Hoffmann at richard.hoffmann@ferc.fed.us or 202-208-0066. 

"The Way of the Future"



Life-Cycle Environmental Impact Assessment for “Green” Energy Projects *(A Hypothetical Conversation)*

By: Bill Karsell, NEPA Compliance Officer, Western Area Power Administration

“**W**hat do you mean I need NEPA compliance to buy green power?” The Site Manager scowled, and her eyes flashed with fire as she challenged her NEPA Compliance Officer. “It’s good for the environment, isn’t it?!”

The NCO swallowed hard. “Yes,” he said. “Er, well, it can be. We just have to evaluate it first.”

The Site Manager was not mollified. “Look, we’re going to buy some wind power or some biomass energy. They don’t pollute, right?”

“You’re making a technology-based assumption,” said the NCO, wishing he were trying to convince anybody else. “NEPA assessment has to be performance-based. I mean, we have to actually dig in and analyze the impacts.”

“Look, we’re going to buy some wind power or some biomass energy. They don’t pollute, right?”

The Site Manager shook her head impatiently. “When the wind blows, we get electricity. Or we use new biomass fuel, not fossil fuel, with no net production of greenhouse gas. What’s to evaluate?”

“We need to look at several things.” The NCO was glad to be fielding a NEPA question. “First, will someone build a new generation facility to meet our demand?”

“Of course they will,” responded the Site Manager, as if enlightening a slow eight-year old. “There’s no unallocated wind or biomass power just floating around hoping someone will buy it. It’s too expensive. Nobody builds green generators without getting purchase commitments first.”

“Well, then, we have to do a NEPA review before we can commit to a purchase.” The NCO opened his dog-eared copy of DOE’s NEPA Regulations, 10 CFR Part 1021, to Subpart D. “It says here in Appendix B, item 4.1, that we can apply a categorical exclusion to power purchase contracts only if they don’t add a new generation source to the grid. So from that we know that we need at least an environmental assessment. How much capacity were you thinking of purchasing? I hope it’s less than 50 megawatts, because —”

“Of course it’s less than 50 megawatts! Two at the most.”

“— because Appendix D, item 7, says that a purchase of 50 megawatts resulting in a new source normally would require an environmental impact statement.”

“What possible negative environmental impacts could there be from a purchase of green power?”

The Site Manager leaned back in her leather chair, gazing into the middle distance and thinking. It still didn’t make a lot of sense to her, but the law was the law. In a less confrontational voice she asked the NCO, “What possible negative environmental impacts could there be from a purchase of green power?”

continued on next page

A Hypothetical Conversation, continued

“Actually, quite a few,” said the NCO, now feeling more at ease. “But first, I think we should drop the term ‘green’ when talking about any power source. The Federal Trade Commission guides* discourage businesses from using words like ‘green’ to imply that their goods or services have general environmental benefits. Every product or service has tradeoffs. Nothing is pure green.”

The Site Manager nodded in agreement. She seemed to be calming down a little.

“If I were going to assess a wind project,” the NCO continued, “I’d start by looking at impacts to terrestrial habitat. Will trees need to be cleared? What would be the ecological effects? What about rainfall runoff? Then I’d review the literature on bird strikes to estimate those impacts. After tabulating the impacts of material production, construction, operation, maintenance and eventual decommissioning, I’d get wind patterns for the site and model the generators into the integrated transmission system.”

“The method I’m talking about is called ‘Life-Cycle Impact Assessment.’”

“Wait a minute,” interjected the Site Manager. “I understand all that about assessing the project impacts. But why do you need the transmission system model?”

“Wind doesn’t blow all the time,” the NCO responded. “At the risk of oversimplifying, if the wind blows when the demand for power is high, that’s great. If it doesn’t, some other generator has to pick up the load. How our project affects the environmental footprint of the entire integrated system can only be understood by modeling the system with and without the project.”

He continued, “Then, for every impact category, like habitat, emissions, wastes, resource depletion, et cetera, I would divide the impacts by the true power output in megawatt-hours. And I’d do the same for every project alternative. I would assess a biomass or any other project like that. With that information you can compare normalized impacts and make a rational choice among competing power sources.”

The Site Manager seemed to be listening, so the NCO went on.

“The method I’m talking about is called ‘Life-Cycle Impact Assessment,’” he said. “It looks at *all* environmental impacts of a product or service from cradle to grave. There’s an international standard for it, ISO 14042, and it’s part of our site’s environmental management system.”

“I understand all about assessing the project impacts. But why do you need the transmission system model?”

The Site Manager pondered this for a moment, then asked, “What if an alternative has lower impacts than the one I, er, we...that is to say –”

“No problem,” interrupted the NCO, rescuing his boss. “NEPA just requires that we present and consider the impacts before making a decision. The law doesn’t tell us what decision to make.”

“Right! Well, you’ve got your job cut out for you. Get to work and let me know when I can sign a contract! Good work!” said the Site Manager, reaching for the stack of papers in her in-basket.

Sensing that the interview was at an end, the NCO wished his boss good day and withdrew, silently thanking the NEPA gods that she hadn’t already signed a contract.

Bill Karsell can be reached at karsell@wapa.gov or 720-962-7252. 


**The Federal Trade Commission (FTC) issued the Guides for the Use of Environmental Marketing Claims (“Green Guides”) to prevent the false or misleading use of environmental terms in product advertising and marketing and reduce consumer confusion. For a copy of the Green Guides contact: FTC Consumer Reponse Center, 600 Pennsylvania Avenue, NW, Washington, DC 20580; 202-FTC-HELP (382-4357); 202-326-2502 (TDD for the hearing impaired). Also, see the FTC Web site at www.ftc.gov.*

Interagency Task Force Launched to Expedite Energy-Related Projects

Executive Order 13212, "Actions to Expedite Energy-Related Projects" (May 18, 2001), establishes an interagency Task Force to monitor and assist Federal agencies in their efforts to expedite review of permits or other actions, as necessary, to accelerate the completion of energy-related projects, while maintaining safety, public health, and environmental protections. The Executive Order states that the Task Force shall be chaired by the Chairman of the Council on Environmental Quality (CEQ) and housed at DOE for administrative purposes. (See article on energy-related Executive Orders, *Lessons Learned Quarterly Report*, June 2001, page 12.)

In an August 20, 2001, *Federal Register* notice (66 FR 43586), CEQ announced the formation of the Task Force


and invited comments on "the proposed nature and scope of Task Force activities, specific suggestions, and examples of permitting or other decision making processes which should be improved or streamlined." Also requested is information about "major energy projects" and "recommendations for improving [Federal] agency activities, consistent with the purposes and policies of the National Environmental Policy Act."

Comments are due to the Chair, CEQ, by October 1. Comments may be sent electronically through the CEQ Web site at www.whitehouse.gov/ceq; by mail to the Executive Office of the President, 17th and G Streets, NW, Washington, DC 20503, Attention: Task Force; or by fax to the Task Force at 202-456-6546. 

EPA Reaffirms Commitment to Environmental Justice

Environmental Protection Agency (EPA) Administrator Christine Todd Whitman, in an August 9, 2001, memorandum to top EPA officials, stated EPA's "firm commitment to the issue of environmental justice and its integration into all programs, policies, and activities, consistent with existing environmental laws and their implementing regulations."


She noted that "Environmental statutes provide many opportunities to address environmental risks and hazards in minority communities and/or low-income communities." With particular reference to NEPA, she said that "Congress could not have been any clearer when it stated that it shall be the continuing responsibility of the Federal government to assure for all Americans 'safe, healthful, productive and aesthetically and culturally pleasing surroundings.'"

"In sum," the Administrator's memo stated, "environmental justice is the goal to be achieved for all communities and persons across this Nation. Environmental justice is achieved when everyone, regardless of race, culture, or income, enjoys the same degree of protection from environmental and health hazards **and** equal access to the decision-making process to have a healthy environment in which to live, learn, and work." 

CEQ NEPA Liaisons Convene on a Variety of Topics

EPA's environmental justice program (article at left) was among a variety of topics presented to Federal Agency NEPA Liaisons at their August 23, 2001, meeting, sponsored by the Council on Environmental Quality (CEQ). Carol Borgstrom, Director, Office of NEPA Policy and Compliance, attended as the NEPA Liaison for DOE Headquarters. The presentation on EPA's environmental justice program included an introduction to the agency's online "Environmental Justice Query Mapper (EnviroJustice Mapper)," an interactive, public resource providing information on EPA-permitted facilities and their surrounding communities (<http://es.epa.gov/oeca/main/ej/ejmapper/>.)


John Fowler, the executive director of the Advisory Council on Historic Preservation, gave a presentation on encouraging the integration of the NEPA process with the National Historic Preservation Act Section 106 process, whenever possible. (See article on ACHP's new regulations, 36 CFR Part 800, in *Lessons Learned Quarterly Report*, June 2001, page 8.)

Horst Greczmiel, CEQ Associate Director for NEPA Oversight, led a discussion on how to apply technology to improve both NEPA analyses and the presentation of information in NEPA documentation. 

e-NEPA: EPA Notices to List Web Addresses


In the interest of making EISs more accessible to the public, U.S. Environmental Protection Agency (EPA) Notices of Availability will now include a Web address (URL) for any Web-published EIS (memorandum from Anne Miller, Acting Director, Office of Federal Activities, to Federal Agency NEPA Contacts, June 22, 2001). EPA will obtain the Web address from the EIS cover sheet or the transmittal letter used to file the EIS with EPA.

DOE EIS preparers are encouraged to include the DOE NEPA Web address in the EIS cover sheet, and the Office of NEPA Policy and Compliance will provide the address in its filing letter. The Web address to provide is: "tis.eh.doe.gov/nepa under DOE NEPA Analyses." (It is not necessary to preface the address with "http://" or include a final "/"; the shorter version is more user-friendly.) You may also include a Program or Field Office Web address at which the document also will be available.

Note that in an EIS cover sheet or distribution letter it is appropriate to say that "the EIS **will be** available online at..." because the EIS may not yet be posted when the distributed document is first received. Address questions to Denise Freeman, DOE NEPA Webmaster, at denise.freeman@eh.doe.gov. 

NAEP Announces 2002 Conference

"Environmental Stewardship – Rebuilding and Maintaining America's Resources" will be the theme of the National Association of Environmental Professionals (NAEP) 27th Annual Conference to be held June 23 to 26, 2002, in Dearborn, Michigan. Abstracts for conference presentations are due October 15, 2001. As in previous years, there will be a NEPA symposium, and presentations on NEPA issues are welcomed.

NAEP is a multi-disciplinary professional association with 17 affiliated state and regional chapters and 20 university chapters. The organization publishes a quarterly research journal, *Environmental Practice*, and administers an environmental professional certification program. For more information on the organization and the 2002 conference, visit the NAEP Web site www.naep.org. (Also see *Lessons Learned Quarterly Report*, June 2001, page 2, and other NAEP articles listed in the index in this issue.) 

DOE-wide NEPA Contracts Update

The following tasks have been awarded recently under the DOE-wide NEPA contracts. For previously reported tasks, see the Cumulative Index (under "Contracting, NEPA") in this issue. For questions or comments on the DOE-wide NEPA contracts, contact David Gallegos at dgallegos@doeal.gov or 505-845-5849.

Task Description	DOE Contact	Date Awarded	Contract Team
EA for Right-of-Way Maintenance in the Sacramento Valley of California	Nancy Werdel 916-353-4537 werdel@wapa.gov	3/08/01	Tetra Tech, Inc.
Support for Environmental Analysis Report for Review of the Decision to Permanently Deactivate the FFTF	Mike Holland 631-344-3454 mholland@bnl.gov	5/22/01	SAIC
EA for the Small-Scale Geothermal Power Plant Project in New Castle, Utah, by Milgro Newcastle, Inc.	Maureen Jordan 303-275-3248 maureen_jordan@nrel.gov	6/18/01	Tetra Tech, Inc.
EA for the Small-Scale Geothermal Power Plant Project in Cotton City, New Mexico, by Exergy Inc.	Maureen Jordan 303-275-3248 maureen_jordan@nrel.gov	6/18/01	Tetra Tech, Inc.
Supplement Analysis for the California-Oregon Transmission Project EIS	Nancy Werdel 916-353-4537 werdel@wapa.gov	7/05/01	Battelle

Training Opportunities

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

- **An Overview of Environmental Laws and Regulations for the Citizens Advisory Boards**

San Antonio, TX: September 18
(USDA Graduate School)
Phone: 214-767-8245
Fee: \$349

- **Environmental Justice and Public Participation (NETO 120)**

Las Vegas, NV: December 7
Fee: TBD

DOE National Environmental Training Office
Phone: 803-725-7153 or -0814
E-mail: NETO@srs.gov
Internet: www.em.doe.gov/neto/

- **Implementation of NEPA on Federal Lands and Facilities**

Durham, NC: October 29 - November 2
Fee: \$960

- **Socioeconomic Impact Analysis Under NEPA**

Durham, NC: November 14-16
Fee: \$640

*Nicholas School of the Environment
Duke University*
Phone: 919-613-8082
E-mail: britt@duke.edu
Internet: www.env.duke.edu/cee/execed.html

- **The NEPA Toolbox™**

Denver, CO: December 3-7

- Positive Public Involvement
December 3-4
 - Integrating NEPA and Section 106
December 5
 - Assessing Cumulative Impacts
December 6-7
- Fees: One day: \$425
Two days: \$650

*Environmental Training & Consulting
International Inc.*
Phone: 720-859-0380
E-mail: workshops@envirotrain.com
Internet: www.envirotrain.com

- **Mastering NEPA**

University City, CA: November 8-9
Fee: \$405

*UCLA Extension on Universal City Walk
UCLA Extension Public Policy Program*
Phone: 310-752-7398
E-mail: nlee@unex.ucla.edu
Internet: www.uclaextension.org/publicpolicy

- **Overview of the NEPA Process**

Virginia Beach, VA: September 11
Boise, ID: December 4
Fee: \$195

- **Reviewing NEPA Documents**

Virginia Beach, VA: September 12-14
Boise, ID: December 5-7
Fee: \$795

- **Clear Writing for NEPA Specialists**

Denver, CO: October 2-4
Jackson, MS: October 16-18
Raleigh, NC: November 6-8
Las Vegas, NV: December 4-6
Fee: \$795

- **Overview of the Endangered Species Act (ESA)**

Las Vegas, NV: October 9
Fee: \$195

- **Cultural and Natural Resource Management**

Las Vegas, NV: October 10-11
Fee: \$595

- **Section 106 Consultation Process**

Las Vegas, NV: October 12
Fee: \$195

- **How to Manage the NEPA Process and Write Effective NEPA Documents**

Las Vegas, NV: October 23-26
Seattle, WA: December 11-14
Fee: \$995

- **How to Manage the Environmental Impact Analysis Process**

San Antonio, TX: November 27-30
Fee: \$995

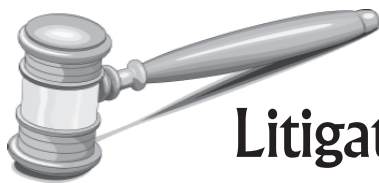
The Shipley Group
Phone: 888-270-2157 or 801-298-7800
E-mail: ben@shipleygroup.com
Internet: www.shipleygroup.com

- **NEPA Workshop**

Santa Clara, CA: October 16
Monterey, CA: November 16
Fee: \$155 (Federal agency staff), \$205 (non-agency)

Classes are held at the University of California,
Santa Cruz Extension in Santa Clara and Monterey.

Tetra Tech, Inc.
Contact: Edward Yates
Phone: 415-974-1221
E-mail: eyates@ttsfo.com



Litigation Updates

Case Dismissed: DOE Not Obligated to Prepare Site-wide EIS at Paducah

The U.S. District Court for the Western District of Kentucky in August dismissed a lawsuit brought by the Regional Association of Concerned Environmentalists (RACE) seeking to require the Department to prepare a site-wide environmental impact statement (EIS) for the Paducah Gaseous Diffusion Plant. The court found, however, there was no “mandatory legal requirement” that DOE prepare the site-wide EIS.

The claim relied on the interpretation of language in DOE’s NEPA regulations at 10 CFR 1021.330(c), which states: “As a matter of policy when not otherwise required, DOE shall prepare site-wide EISs for certain

large, multiple-facility DOE sites;....” The court interpreted this language as providing no standards, meaningful or otherwise, and, therefore, that DOE had a “discretionary choice” whether to prepare site-wide EISs at “certain of its facilities.”

This was the remaining issue in a suit involving a proposed demonstration of Vortec waste treatment technology at Paducah, which was otherwise settled last year (*Lessons Learned Quarterly Report*, December 2000, page 12). **LL**

Other Agency NEPA Case EIS Required for Proposal with High Degree of Uncertainty, Scientific Controversy

In litigation over a National Park Service plan to manage vessel traffic in Glacier Bay, Alaska, the U.S. Court of Appeals for the Ninth Circuit found that an environmental assessment (EA) that identified the certain existence of adverse impacts but did not assess their severity could not support a finding of no significant impact (FONSI). Further, the court found that agency commitments to monitor the impacts and mitigate them later did not guarantee that significant, possibly irreversible, adverse impacts could be prevented.

Glacier Bay Vessel Management Plan/EA Challenged

Because there are no roads to Glacier Bay National Park and Preserve in the Alaskan panhandle, cruise ships and other watercraft provide most of the access for visitors who enjoy the deep fjords, actively calving (detaching) tidewater glaciers, and abundant wildlife, including the endangered humpback whale. Approximately 80 percent of the visitors arrive on large, thousand-passenger cruise ships. The National Marine Fisheries Service expressed concerns in biological opinions beginning in 1978 over the increasing vessel traffic and the related disturbance of marine animals in the bay. In response, in 1995 the Park Service issued a draft EA evaluating alternatives for managing vessel operations, combined with a proposed

Vessel Management Plan that would adopt the preferred alternative of allowing the number of cruise ships entering the bay each summer to increase from 107 to 184.

After six public hearings and receiving about 450 comments – most of which favored reducing vessel traffic – in 1996 the Park Service issued a revised Plan and EA, and a proposed FONSI. The revised Plan would allow a phased increase in the number of cruise ships over several seasons, up to the previous preferred alternative number, if certain conditions were met. The quotas for charter boats and private watercraft would also increase.

The revised EA acknowledged that marine mammals would be affected by increased vessel traffic, noise, and related disturbances. The nature or extent of such effects, however, was “unknown.” Also unknown were potential effects on bird populations, including waterfowl and bald eagles. Increased risks of vessel accidents and fuel spills were predicted, but with “unknown” magnitude. Air quality could be degraded by the increase in cruise ships’ stack emissions, but again the biological effects were “unknown.” The proposed FONSI stated, however, that mitigation strategies – primarily in the form of research and monitoring – would significantly reduce

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Other Agency NEPA Case (continued from previous page)

environmental effects resulting from vessel entries into Glacier Bay.

The National Parks and Conservation Association, a nonprofit citizen's organization, submitted objections to the revised EA and Vessel Management Plan and the proposed FONSI. The Park Service adopted the revised Vessel Management Plan and issued a FONSI in 1996. The National Parks and Conservation Association in 1997 brought suit in the U.S. District Court for the District of Alaska, requesting the court to rescind the Plan and require an EIS. The district court denied the request, determining that the numerous uncertainties manifested in the EA were not sufficient to require an EIS and observing that the Park Service had "thoroughly canvassed" the existing information. The court concluded that a modest increase in the number of visitors could be allowed while additional studies were conducted. The plaintiffs appealed, and the Ninth Circuit Court of Appeals, in a February 2001 decision, reversed the district court's ruling and remanded the case, requiring that the Plan to allow increased vessel traffic not be implemented until the Park Service completed an EIS.

Determining "Significance" is Key

The appeals court found that an EIS was required because the Plan could cause significant adverse impacts on the environment. The court noted that, under Council on Environmental Quality NEPA regulations, significance depends on context and intensity. The court established intensity in this case by using three of the ten factors listed at 40 CFR 1508.27, specifically (1) unique characteristics of the geographic area; (2) the degree to which effects are highly uncertain; and (3) the degree to which effects are highly controversial. Stating that the unique qualities of Glacier Bay need no elaboration, the court focused on uncertainty and controversy.

Uncertainty In determining that the Park Service should have prepared an EIS, the court premised that an agency must prepare an EIS if the environmental effects of a proposed agency action are highly uncertain. The court stated that the "uncertainty manifested through the EA stems from two sources: an absence of information about the practical effect of increased traffic on the Bay and its inhabitants; and a failure to present adequate proposals to offset environmental damage through mitigation measures." The court found that the Park Service's lack of knowledge did not excuse the preparation of an EIS; rather it required the Park Service to do the necessary work to obtain the knowledge.

Observing that an agency's decision to forego an EIS may be justified under some circumstances by the adoption of mitigation measures, the appeals court found that, in this case, there was "a paucity of analytical data to support the Park Service's conclusion that the mitigation measures would be adequate in light of the potential environmental

harms." In the court's view, there was insufficient evidence that the mitigation measures would be effective to reduce the mostly "unknown" effects of the increase in vessel traffic.

Controversy The appeals court also found that an EIS was required because the proposal had engendered sufficient controversy about the effects. Decisions in past NEPA litigation have established that a Federal action is controversial when (1) substantial questions are raised as to whether the proposal would cause significant degradation of the environment, or (2) there is a substantial dispute concerning the size, nature, or effect of the action. Of the 450 comments on the Vessel Management Plan and EA, approximately 85% opposed the Park Service's preferred alternative. To the extent the comments urged that the EA's analysis was incomplete and the mitigation uncertain, they cast substantial doubt on the adequacy of the Park Service's methodology and data, the court stated.

The appeals court found that the dispute was more than a disagreement among qualified experts. The National Parks and Conservation Association had asserted that the potential effects would be substantial; the Park Service responded that the extent of the effects was unknown. "Therein lay the controversy," the court stated.

An Agency Cannot Act First, Study Later

The Park Service's Plan and EA proposed a research and monitoring program to fill information gaps and assist in understanding the potential effects on the environment. The court stated that this was "precisely the understanding that is required before a decision that may have a significant adverse impact on the environment is made and precisely why an EIS must be prepared in this case." According to the court, in proposing to increase the risk of harm to the environment and then perform studies, the Park Service "has the process exactly backwards." Agencies must take the requisite "hard look" before, not after, the action is implemented.

Injunctive Relief and the Cruise Companies

The Ninth Circuit granted the plaintiffs' request for an injunction by ordering the Park Service to return Glacier Bay vessel traffic to pre-1996 levels, based on the court's determination that resulting damage to ship companies and their passengers would not outweigh the environmental harm of implementing the Vessel Management Plan. (Generally the Federal government is the only defendant in a NEPA action, but in this case the court allowed a tour company to intervene and assert its interests.)

National Parks and Conservation Association v. Babbitt (Nos. 99-36065, 99-36094; 241 F.3d 722; 9th Cir., February 23, 2001). **LL**

EAs and EISs Completed (April 1 to June 30, 2001)

EAs

Bonneville Power Administration

DOE/EA-1374 (4/5/01)

Avian Predation on Juvenile Salmonids in the Lower Columbia River Research Project, Astoria and Hermiston, OR

Cost: \$14,000

Time: 3 months

National Energy Technology Laboratory/Fossil Energy

DOE/EA-1336 (4/6/01)

Participation in the Ocean Sequestration of CO₂ Field Experiment, HI

Cost: \$140,000

Time: 15 months

Nevada Operations Office/Defense Programs – National Nuclear Security Administration

DOE/EA-1381 (5/30/01)

Atlas Relocation and Operation at the Nevada Test Site, NV

Cost: \$23,000

Time: 7 months

Oak Ridge Operations Office/Office of Science

DOE/EA-1362 (6/1/01)

Oak Ridge National Laboratory Facilities Revitalization Project, TN

Cost: \$158,000

Time: 9 months

Oak Ridge Operations Office/Environmental Management

DOE/EA-1392 (6/13/01)

Winterization Activities in Preparation for Cold Standby at the Portsmouth Gaseous Diffusion Plant, Piketon, OH

Cost: \$133,000

Time: 2 months

Richland Operations Office/Environmental Management

DOE/EA-1369 (6/20/01)

K-Basins Sludge Storage at 221-T Building, Hanford Site, WA

Cost: \$37,000

Time: 7 months

Rocky Flats Field Office/Environmental Management

DOE/EA-1371 (4/4/01)

Rock Creek Reserve Integrated Natural Resources Management Plan, CO

Cost: \$210,000

Time: 7 months

EIS

Western Area Power Administration

DOE/EIS-0322 (66 FR 34632; 6/29/01)

(EPA Rating: EC-2)

Sundance Energy Project, AZ

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

Time: 10 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

(See the EPA Web site, <http://es.epa.gov/oeca/ofa/rating.html> for a full explanation of these definitions.)

Recent EIS-Related Milestones (June 1 to August 31, 2001)

Notices of Intent

Bonneville Power Administration

DOE/EIS-0333

Maiden Wind Farm Project, Benton and Yakima Counties, WA

6/5/01 (66 FR 31624; 6/12/01)

DOE/EIS-0334

Starbuck Power Project, Columbia County, WA

6/4/01 (66 FR 32339; 6/14/01)

Environmental Management

DOE/EIS-0327

Disposition of Scrap Metals, Programmatic

7/6/01 (66 FR 36562; 7/12/01)

Fossil Energy

DOE/EIS-0336

Tucson Electric Power Company Transmission Line, AZ

7/5/01 (66 FR 35950; 7/10/01)

Nevada Operations Office/Defense Programs – National Nuclear Security Administration

DOE/EIS-0335

Proposed Wind Farm at the Nevada Test Site, NV

7/17/01 (66 FR 38648; 7/25/01)

Draft EISs

Bonneville Power Administration

DOE/EIS-0312

Fish and Wildlife Implementation Plan, OR, WA

June 2001 (66 FR 33537; 6/22/01)

DOE/EIS-0317

Kangley-Echo Lake Transmission Line, WA

June 2001 (66 FR 34632; 6/29/01)

DOE/EIS-0321

Condon Wind Project, Gilliam County, OR

June 2001 (66 FR 29799; 6/1/01)

DOE/EIS-0324

Umatilla Generating Project, OR

August 2001 (66 FR 44620; 8/27/01)

Western Area Power Administration

DOE/EIS-0315

Big Sandy Energy Project, Wikieup, AZ

June 2001 (66 FR 33537; 6/22/01)

Final EIS

Savannah River Operations Office/Environmental Management

DOE/EIS-0082-S2

*Savannah River Site Salt Processing Alternatives,
Aiken, SC*

July 2001 (66 FR 37957; 7/20/01)

Amended Records of Decision

Environmental Management

DOE/EIS-0200

*Treatment and Storage of Transuranic (TRU) Waste from
the Mound Plant (Second Revision to Programmatic
Record of Decision for Treatment and Storage of TRU
Waste)*

7/13/01 (66 FR 38646; 7/25/01)

Savannah River Operations Office/Environmental Management

DOE/EIS-0217

*Management of Low-Level Radioactive Waste and
Mixed Hazardous and Low-Level Radioactive Waste at
the Savannah River Site, Aiken, SC*

6/4/01 (66 FR 34431; 6/28/01)

Records of Decision

Bonneville Power Administration

DOE/EIS-0183

Temporary Small Resource Policy

6/22/01 (66 FR 35779; 7/9/01)

DOE/EIS-0230

*Electrical Interconnection of the
Chehalis Generation Facility*

5/24/01 (66 FR 29937; 6/4/01)

Western Area Power Administration

DOE/EIS-0322

Sundance Energy Project, AZ

8/20/01 (66 FR 45979; 8/31/01)

Supplement Analyses

Bonneville Power Administration

Mid-Columbia Coho Reintroduction Feasibility Project (DOE/EA-1282)

DOE/EA-1282/SA-1

*Mid-Columbia Coho Reintroduction Feasibility Project –
Modifications to Original Proposal*

(Decision: No further NEPA review required) April 2001*

Wildlife Mitigation Program (DOE/EIS-0246)

DOE/EIS-0246/SA-15

Western Pond Turtle Recovery – Columbia River Gorge
(Decision: No further NEPA review required) May 2001*

continued on next page

Recent EIS-Related Milestones (continued from previous page)

Watershed Management Program (DOE/EIS-0265)

DOE/EIS-0265/SA-50
John Day Watershed Restoration
(Decision: No further NEPA review required) May 2001*

DOE/EIS-0265/SA-51
Chumstick Creek Culvert Replacement Projects
(Decision: No further NEPA review required) April 2001*

DOE/EIS-0265/SA-52
Protect and Enhance John Day Anadromous Fish Habitat
(Decision: No further NEPA review required) May 2001*

DOE/EIS-0265/SA-53
Lake Billy Shaw Operations and Maintenance
(Decision: No further NEPA review required) June 2001

DOE/EIS-0265/SA-54
Habitat Enhancement and Protection on the Duck Valley Indian Reservation
(Decision: No further NEPA review required) June 2001

DOE/EIS-0265/SA-55
Jim Brown Creek Streambank Stabilization Project
(Decision: No further NEPA review required) June 2001

DOE/EIS-0265/SA-56
Mining Reach of the Wind River and Dry Creek Rehabilitation
(Decision: No further NEPA review required) June 2001

Transmission System Vegetation Management Program (DOE/EIS-0285)

DOE/EIS-0285/SA-2
Danger Tree Clearing on Nine Rights-of-Way
(Decision: No further NEPA review required) April 2001*

DOE/EIS-0285/SA-3
Vegetation Management on Grizzly-Summerlake Transmission Line Corridor from Structure 52/2 to 68/1+340
(Decision: No further NEPA review required) March 2001*

DOE/EIS-0285/SA-4
Vegetation Management on Ponderosa-Pilot Butte 18/2 to 18/4 Relocation
(Decision: No further NEPA review required) March 2001*

DOE/EIS-0285/SA-5
Vegetation Management on Big Eddy-Ostrander Transmission Line Corridor from Structure 27/3 to 93/3+100
(Decision: No further NEPA review required) March 2001*

DOE/EIS-0285/SA-6
Vegetation Management of Annual Weeds on Seven Acres of BPA-Owned Pastureland at the Walla Walla Substation
(Decision: No further NEPA review required) April 2001*

DOE/EIS-0285/SA-7
Vegetation Management on Sections of Three Rights-of-Way
(Decision: No further NEPA review required) April 2001*

DOE/EIS-0285/SA-8
Clearing C-Trees (Tall Growing Trees) Along the South Side of the Right-of-Way
(Decision: No further NEPA review required) April 2001*

DOE/EIS-0285/SA-9
Vegetation Management on McNary-Santiam No. 1 and No. 2 Transmission Line Corridor from Structure 137/2 to 150/1+500
(Decision: No further NEPA review required) May 2001*

DOE/EIS-0285/SA-10
Vegetation Management along the Covington-Duwamish No. 1 Right-of-Way From Covington Substation to Tower 10/4
(Decision: No further NEPA review required) May 2001*

DOE/EIS-0285/SA-11
Vegetation Management along the Covington-Maple Valley No. 2 Transmission Line Right-of-Way
(Decision: No further NEPA review required) May 2001*

DOE/EIS-0285/SA-12
Vegetation Management along the Olympia-Grand Coulee No. 1 Transmission Line Right-of-Way
(Decision: No further NEPA review required) May 2001*

DOE/EIS-0285/SA-13
Vegetation Management along the Naselle Tarlett No. 1 and No. 2 Transmission Line Right-of-Way
(Decision: No further NEPA review required) June 2001

DOE/EIS-0285/SA-14
Vegetation Management at the Teakeah Butte Microwave Site
(Decision: No further NEPA review required) June 2001

DOE/EIS-0285/SA-15
Vegetation Management on Selected Sections of Rights-of-Way in the Ross-St. John and Ross-Carborundum Transmission Line Rights-of-Way
(Decision: No further NEPA review required) June 2001 **LL**

*Not previously reported in Lessons Learned

Third Quarter FY 2001 Questionnaire Results

What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1B requires the Office of NEPA Policy and Compliance to solicit comments on lessons learned in the process of completing NEPA documents and distribute quarterly reports. This Quarterly Report covers documents completed between April 1 and June 30, 2001.

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

- *Early stakeholder involvement.* Project staff met with all of the stakeholder organizations early in the process to obtain their input.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Responsive NEPA document contractor management.* Contractor project management was very responsive to changing the scope and the need to update or generate supporting documentation.
- *Pressure to complete the process.* The NEPA process and project permits needed to be completed for the research to proceed, and the research had to be timed to coincide with bird migration periods.
- *Communication and determination.* Constant communication among all parties involved in document preparation, and a willingness to drive to meet the scheduled completion date, facilitated timely completion.

Factors that Inhibited Timely Completion of Documents

- *Lack of attention from the NEPA Compliance Officer.* The NEPA Compliance Officer did not always sign off on necessary letters in a timely manner, and allowed discussions in review meetings to wander to irrelevant topics and previously reviewed issues.
- *An inexperienced NEPA Document Manager.* The NEPA Document Manager was new to the job, unassertive, and on travel during the review process.
- *Extensions of public comment periods.* The operations office continually allows more than the required 30-day public comment period on EAs, which eventually affects the schedule.

Factors that Facilitated Effective Teamwork

- *Close cooperation between DOE and contractor personnel.* The NEPA Document Manager and a DOE radiation exposure expert worked closely with contractor personnel to resolve issues.
- *Having a stake in the outcome.* All parties had a stake in completing the process for the good of the laboratory.

Factors that Inhibited Effective Teamwork

- *Irrelevant discussions during reviews.* One panel member continually brought up irrelevant topics during review meetings.

Process

Successful Aspects of the Public Participation Process

- *Use of electronic mail for communication.* Electronic mail provided an efficient and inexpensive way to provide information to the public and for the public to submit comments.
- *Early and continual communication.* The public was pleased with the early and continual communication about the project, and a public meeting was highly effective in generating stakeholder comments on the draft EA.

Unsuccessful Aspects of the Public Participation Process

- *Out of scope comments.* The public didn't understand the NEPA process and provided comments that were outside the scope of the EA.
- *Problems opening electronic documents.* The only public comment on the EA was from someone unable to open the document on our facility's web site. In the future we will provide a phone number for people to call for a paper copy if they have similar problems.

continued on next page

Third Quarter FY 2001 Questionnaire Results

What Worked and Didn't Work (continued)

- *Lack of influence of the NEPA process on the project.* There was little public participation because other requirements made the proposed action inevitable.

Usefulness

Agency Planning and Decision Making – What Worked


- *Helping project management focus.* The NEPA process helped project management focus on needed engineering studies concerning various technical issues.
- *Early scoping.* Discussions held early in the scoping process led to a sound and complete scope of work for preparing the EA and resulted in a definite cost savings.

Enhancement/Protection of the Environment

- *Endangered species protection.* The EA process ensured that the project would avoid disturbing an endangered bird species.

Effectiveness of the NEPA Process

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

- For this quarter, in which seven EAs and one EIS were completed, 3 out of 5 respondents rated the NEPA process as “effective.”
- One respondent who rated the process as “4” stated that the environment is enhanced any time a NEPA document is produced, if only by recognition of the potential impacts of the project.
- One respondent who rated the process as “2” stated that the purpose of the proposed project was to determine the effectiveness of another project designed to protect an endangered species, and the decision to continue that project had already been made.
- A respondent who rated the process as “0” stated that other requirements mandated the proposed action, and the NEPA document just confirmed the existing plans. 

NEPA Document Cost and Time Facts

Costs

EAs

- For this quarter, the median cost of the seven EAs completed was \$133,000; the average was \$102,000.
- Cumulatively, for the 12 months that ended June 30, 2001, the median cost for the preparation of 23 EAs was \$65,000; the average was \$81,000.

EISs


- Cumulatively, for the 12 months that ended June 30, 2001, the median and average costs for the preparation of 3 EISs (excluding EIS-0322, which was paid for by the applicant) were both \$2.6 million.

Completion Times

EAs

- For this quarter, the median and average completion times of seven EAs were both 7 months.
- Cumulatively, for the 12 months that ended June 30, 2001, the median completion time for 25 EAs was 9 months; the average was 11 months.

EISs

- Cumulatively, for the 12 months that ended June 30, 2001, the median completion time for 4 EISs was 17 months; the average was 18 months. 

Cumulative Topical Index to Quarterly Reports on Lessons Learned in the NEPA Process

KEY

Primary Topic
secondary topic
Month Year/page number(s)

A

Accident Analyses

Sep 95/12; Dec 95/15; Sep 97/7;
Sep 98/7; Dec 98/5; Jun 00/3, 8

Administrative Record

also see: Legal Issues

Mar 97/13; Sep 97/7; Jun 98/7; Dec 98/4

Advisory Council on Historic Preservation

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Jun 01/8

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Alternative Dispute Resolution

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Alternatives

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Amphibian Population Declines

Dec 00/4

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Mar 98/9; Dec 98/14; Mar 01/12

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Sep 96/11

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B

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Dec 97/11

Bioremediation

Mar 01/1

Biota, DOE Technical Standard for

Evaluating Radiation Doses to

Sep 00/7

Book Reviews

Communicating Risk in a Changing World

Sep 98/8

Environmental Policy and NEPA

Sep 98/5

Environmental Impact Assessment

Sep 96/12

Environmental Impact Statements

Sep 00/11

NEPA Effectiveness—Managing the Process

Sep 98/5

NEPA: An Agenda for the Future

Jun 99/10; Sep 00/11

NEPA Planning Process—A

Comprehensive Guide

Jun 99/10

NEPA Reference Guide

Dec 99/15

Toward Environmental Justice

Jun 99/11

Bounding Analyses

Mar 96/5; Jun 96/3

Bureau of Land Management Ideas

Worksheet (EIS scoping tool)

Mar 01/9

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also see: Legal Issues

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Jun 98/4; Mar 00/3

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Dec 99/9, 11; Jun 00/8

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Mar 99/7

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Sep 95/12

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Sep 96/6

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Dec 98/1

Comprehensive Environmental

Response, Compensation and Liability

Act (CERCLA) *also see: Legal Issues*

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see: Dispute Resolution

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DOE-wide NEPA document

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Dec 96/3; Jun 97/1; Sep 97/10;

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Cooperating Agencies

also see: Process, NEPA; Tribes

Sep 99/5; Dec 00/4; Sep 01/1

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Dec 99/1

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