

LESSONS LEARNED

June 3, 2002; Issue No. 31

Second Quarter FY 2002

Beverly Cook Balances NEPA Objectives: Both Flexibility and Consistency Are Needed

“We must change some of our thinking on how we implement NEPA to get a more flexible outcome within our basic NEPA process,” advises Beverly Cook, DOE’s new Assistant Secretary for Environment, Safety and Health. “DOE’s NEPA Program is mature, with many years of experience in environmental reviews that add value to decisionmaking. But we need to better accommodate technical and policy changes that develop while an EIS is in preparation,” she said in a recent interview with staff of the Office of NEPA Policy and Compliance.

Formerly a senior manager of DOE Field, Program, and contractor organizations, and now the Assistant Secretary responsible for DOE’s NEPA program, Ms. Cook has experienced NEPA from a range of perspectives: from generating data, through designing and preparing environmental analyses to meet the needs of decisionmakers and the public, to making major decisions based on NEPA documents. Following is a summary of Ms. Cook’s comments during the April 29, 2002, interview.

As a decisionmaker, I found that NEPA documents are invaluable for providing all the needed information, both the big picture and the details, in one place. The contents of an EIS – the stated need, affected areas, alternatives for meeting that need, and impacts of all alternatives – are essential for making good decisions in general, not just good decisions about the environment. Having this information presented in one location – with documentation of the background information and with consistent perspective and assumptions – gave me confidence in the paths we were choosing to accomplish the Department’s missions.

The hardest part of NEPA is using a single document to explain issues to a variety of audiences. Decisionmakers need a comprehensive and detailed examination of the implications of the decision at hand. Some members of the public want a concise explanation that does not presuppose a great deal of technical knowledge, while other groups, such as retired workers with decades of experience



Before taking the reins of Environment, Safety and Health, Beverly Cook served as Idaho Operations Office Manager and as a senior manager in Nuclear Energy and Environmental Management.

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DOE NEPA Community Meeting to be held July 16 – 17 in Washington, DC
See page 4 for details.

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Carol Borgstrom

Director
Office of NEPA Policy and Compliance

Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions, comments, and contributed drafts for the *Lessons Learned Quarterly Report*. Draft articles for the next issue are requested by August 1, 2002. Contact Yardena Mansoor at yardena.mansoor@eh.doe.gov or 202-586-9326.

Quarterly Questionnaires Due August 1, 2002

Lessons Learned Questionnaires for NEPA documents completed during the third quarter of fiscal year 2002 (April 1 through June 30, 2002) should be submitted by August 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.

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. Also on the Web site is a cumulative index of the *Lessons Learned Quarterly Report*. The index is printed in the September issue each year.

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NAEP Annual Conference to Address Environmental Stewardship, NEPA Topics

The National Association of Environmental Professionals (NAEP) will hold its 27th annual conference – Environmental Stewardship: Rebuilding and Maintaining America's Resources – in Dearborn, Michigan, June 23-26, 2002. As usual, many current NEPA-related issues are on the agenda.

The NEPA track will include three sessions of presentations in which NEPA practitioners will discuss "Expanded Use of Web-based Resources to Increase NEPA Public Participation at DOE's Savannah River Site," "Performing Cumulative Impact Assessments for NEPA," "Integration of Decision and Roadmapping Process and Tools for State of the Art NEPA EIS Process," "Using the Internet to Support EIS Development and Public Involvement Programs," and "NEPA in an Age of Terrorism," among other topics.

There will be two expert panels that discuss NEPA legal issues. In addition, there will be a two-hour session focused on integrating Environmental Management Systems and the NEPA process.

NEPA training will be offered during the conference. Courses include "Conducting Quality Cumulative Impact Analyses" under NEPA, "NEPA Tools and Techniques for Solving Problems," and "NEPA for Managers and New Practitioners." The cost of each course is \$150 for NAEP members, in addition to conference registration. Registration is still open for the conference and courses. For more information, see www.naep.org. 

Beverly Cook Balances NEPA Objectives (continued from page 1)

at our sites, often request more technical details than are appropriate for an EIS. To keep an EIS focused, we should create technical appendices as needed and incorporate by reference additional resources that are available in the administrative record.

State officials and agency regulators also have information needs that DOE can address effectively in NEPA documents. In particular, better explanation of environmental analyses would help these stakeholders assess the implications of DOE proposals, and in particular, understand the factors that affect the choice among the alternatives.

While we are proficient at impact assessment, we are not as adept in developing alternatives that give us the flexibility to deal with technology and policy changes. Anticipating future needs and adapting quickly to change are significant challenges. It is difficult to anticipate what changes could occur during an EIS process that would make formerly unreasonable alternatives reasonable. For a complex EIS process, incorporating new alternatives is very difficult. One way to address this is to focus more on the outcomes of alternatives, not specific solutions. If the desired outcome is to reduce risk, for example, the NEPA process should include flexible and efficient alternatives that can reduce risk, perhaps by implementing more than one alternative to address different categories of risk or by taking appropriate steps incrementally over time. We need to work on developing a more responsive NEPA process that can accommodate change relatively quickly.

The Office of Environment, Safety and Health can make a major contribution to consistency in DOE's NEPA implementation. Consistency promotes respect. As a contractor manager at Idaho National Engineering and Environmental Laboratory, I observed apparent inconsistencies in application of categorical exclusions around the complex. In Nuclear Energy, Environmental Management, and the Idaho Operations Office, I worked on EISs for major projects with issues affecting many parts of the complex. Although DOE sites are diverse, they hold similar hazardous and radioactive materials and perform associated common activities, such as transportation and storage. DOE would benefit from

more consistent determinations of the level of NEPA review for similar types of activities, for example, considering transportation impacts consistently. We must recognize that public trust comes from consistency in how we implement NEPA. When a NEPA review does something “out of the box” in comparison to how DOE has handled the issue in other EISs, people may mistrust our NEPA process. They may think that we are trying to “game” the NEPA process to support a predetermined conclusion. When we use innovative analysis or procedures, we should also explain why we are changing our approach and indicate why it is appropriate to do so.

Risk communication – that is, explaining how DOE estimates risk and how we use it to make decisions – is central to successful stakeholder interactions. My experiences with the 1997 launch of the Cassini spacecraft to Saturn, in which DOE was a cooperating agency with the National Aeronautics and Space Administration, illustrated to me how the public perceives risk. DOE's involvement in the project was in providing the plutonium power sources for the Cassini spacecraft, and much of the controversy centered on the consequences of possible plutonium contamination from an accident during launch or earth orbit.

While with the Office of Nuclear Energy, I acted as the DOE spokesperson in explaining risks associated with this highly controversial project to public groups, television interviewers, and others. It was important first to explain the tools used to assess risk, then to present the results – that is, the facts regarding risks and benefits of the project – and finally to explain how the agencies would use these results to make decisions.

Managers can have a more hassle-free NEPA process by focusing document preparation efforts to serve the decision and by applying guidance and lessons learned. It is not surprising that NEPA is sometimes hard to do, but managers need to be specific about the problems they encounter. What do they see as burdens in preparing a NEPA analysis and what obstacles does the process pose for decisionmaking? Are we trying to produce documents that are too encyclopedic?

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Beverly Cook Balances NEPA Objectives (continued from page 3)

Guidance can be an effective tool for supporting the internal DOE NEPA process. We have a wealth of advice on scoping, public participation, document content and quality, developing alternatives, assessing various types of impacts, and many other subjects. We should avoid viewing guidance as requirements, however. It is not appropriate or helpful to “overproduce” a NEPA document, for example, by providing highly detailed discussions of issues or resources that are not central to a decision.

Even more helpful, I believe, is sharing and applying lessons learned in previous NEPA reviews. Since 1994, DOE has had a system for collecting, analyzing, and disseminating lessons learned – both positive and negative ones. As new major EISs are issued, we should aim to refine our lessons learned.

A new challenge lies in balancing NEPA activities, which are designed to make information publicly available, with newly recognized needs for greater security, which could warrant restricting access to information. After the events of September 11, DOE, like many other agencies, made the difficult decision to remove certain operations-related information from NEPA documents and to limit their online availability. We must remember that protection of our workers and neighboring communities is our Number 1 priority. If publishing

information on the location and features of hazardous materials and facilities makes them more vulnerable to attack, we must favor the approach of limiting distribution of this information. But we need to implement this change consistently, and explain to the public why we are doing so with a consistent message. If we fail to do so, we will raise suspicions that we are trying to make secretive decisions.

Everyone dealing with NEPA needs to be thinking of framing analyses to support future decisions. EH wants to help meet the challenges of timeliness and flexibility. The Department’s missions, priorities, and activities are dramatically changing to respond to a variety of cleanup efforts, challenges in maintaining our energy supplies, and supporting national security needs. Don’t wait to be called upon to start framing issues. EH wants to enhance the usefulness of NEPA reviews to support more flexible decisions.

We will discuss these ideas – and more – at the July NEPA meeting in Washington, DC. I look forward to meeting DOE’s NEPA community there.

[This interview was conducted by Eric Cohen, Jim Daniel, Yardena Mansoor, and Carolyn Osborne.] 

DOE NEPA Community Meeting in July Will Focus on Guidance, Streamlining, Flexibility

More than 100 DOE NEPA Compliance Officers, NEPA Document Managers, and NEPA counsel, contacts, and contractors will meet with the Office of NEPA Policy and Compliance at DOE’s NEPA Community Meeting, to be held July 16 and 17 at the Hotel Washington in Washington, DC.

Council on Environmental Quality (CEQ) Chair James L. Connaughton, and DOE’s new Assistant Secretary for Environment, Safety and Health Beverly Cook, among others, will address the group.

“We’re trying to reform and re-energize NEPA implementation at DOE,” said Carol Borgstrom, director of the Office of NEPA Policy and Compliance, emphasizing the meeting’s theme. “New NEPA-related guidance will be a major focus of discussion. We want to facilitate a more efficient NEPA process at DOE, and we hope all participants will share lessons learned.”

“The CEQ is leading Federal agencies toward integration of NEPA with its Environmental Management Systems initiative,

and all Federal agencies are looking at how the tragedy of September 11 impacts day-to-day activities, including the release of information during the NEPA process. Here at DOE, Assistant Secretary Cook is enthusiastic about continuing improvements in our NEPA implementation, and the Environmental Management program is taking a hard look at its NEPA activities. We have numerous NEPA reviews underway, each supporting important decisions. We’ll discuss these topics and many more at this year’s NEPA Community Meeting.”

The two-day meeting will feature panel discussions on recommendations from the Top-to-Bottom Review of the Environmental Management Program, e-NEPA and Web security issues, lessons learned from the Yucca Mountain EIS, and NEPA-related guidance. For more information about the meeting, contact Yardena Mansoor at yardena.mansoor@eh.doe.gov or 202-586-9326. 

Expanding Online Access to DOE NEPA Documents

By: Denise Freeman, *Webmaster*

Since blocking access to EISs and EAs (but not to any other content) on the DOE NEPA Web Site in early November 2001, the Office of NEPA Policy and Compliance has taken steps to make NEPA documents available on a limited basis while protecting homeland security. (See related articles in March 2002 and December 2001 issues of *LLQR*.)

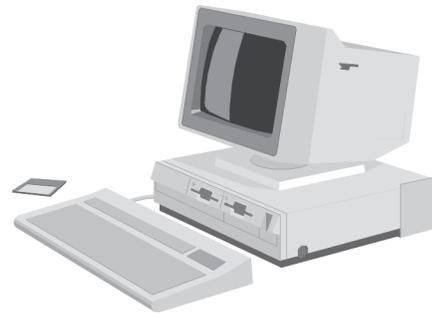
First, in January 2002, the NEPA Office restored online access to all DOE NEPA documents for DOE personnel (i.e., to people with “doe.gov” and similar DOE e-mail addresses). Then, in April 2002, the NEPA Office implemented the NEPA Document Access System to make all NEPA documents available online to contractors who help DOE prepare NEPA documents. The system requires that contractors complete an electronic account application in which they identify themselves, state their need for access to DOE NEPA documents, and provide a DOE contact. Upon confirmation of applicant information (usually within two or three days), User IDs and passwords are issued to applicants via U.S. mail, or upon request, telephone or an attended fax machine.

All DOE personnel should be able to access NEPA documents directly, without need for a password account. Some DOE personnel, however, have had difficulties accessing documents. We try to diagnose and fix such problems when they are reported. This takes time and in some cases DOE personnel have asked for password accounts, which we process as soon as possible.

At this time, archived documents are not available online to anyone other than DOE employees and DOE NEPA contractors because these documents have not been reviewed to determine if they contain security-sensitive information. We welcome comments on whether and how to expand the universe of people that may access documents archived on the DOE NEPA Web site.

We will make newly-completed NEPA documents (in their entirety or with sensitive material removed) available online to anyone, if that is appropriate after security reviews of the documents have been completed by the cognizant Program or Field Office. We would also make documents archived on the DOE NEPA Web Site available to anyone, if appropriate after security reviews are completed.

We will keep the NEPA community apprised of any new developments in e-NEPA. 



Change in e-file Submittal Address

For Draft and Final EISs, after consulting with the Office of NEPA Policy and Compliance staff, send the following as soon as available (preferably when the document is sent to the printer) by overnight courier to the following (changed) address:

ES&H Info Center
Attn: Rhonda Toms, EH-72
Building 270CC
19901 Germantown Road
Germantown, MD 20874-1290

- ✓ One paper copy of the EIS*
- ✓ Web-formatted electronic files
- ✓ A completed DOE NEPA Document Certification and Transmittal Form (available at tis.eh.doe.gov/nepa/docs/docs.htm).

*Also send *two* paper copies of the EIS to Carol Borgstrom at the Office of NEPA Policy and Compliance.

For EAs, FONSI, and other NEPA Documents, send the following within two weeks of their availability directly to the Office of NEPA Policy and Compliance:

- ✓ Three printed copies of the NEPA document
- ✓ Web-formatted electronic files
- ✓ A completed DOE NEPA Document Certification and Transmittal Form (available at tis.eh.doe.gov/nepa/docs/docs.htm). 

Perspectives from a Town Official: Good Risk Communication Aids Local Government

By: Dave Pyatt, P.E., Environment, Safety and Health, Office of Authorization Bases Oversight, and Councilman, Mount Airy, Maryland

Beverly Cook has noted (see page 1) that risk information is key to informed decisionmaking and successful interactions with stakeholders. This view is shared by a staff member who also serves as a local government official.

Since 1988, I have been both a “nose to the grindstone” safety engineer in DOE’s Office of Environment, Safety and Health and an elected member of the Town Council in Mount Airy, Maryland. I based my first career choice on education, work experience, interests, and economics. I began my second career as a lark – just one meeting a month, or so I was told. Juggling these careers has gotten me involved in environmental policy from two different perspectives.

The environment is often a key issue for local government, for a variety of reasons. Environment is often interpreted very broadly, encompassing many “quality of life” concerns. It is often a hot-button issue with the public. The costs of environmental protection activities can be high compared to local resources; my town of about 8,000 people has an annual budget totaling about \$2.5 million. And municipal environmental staffing is limited, even counting consultants and volunteers.

A key environmental responsibility of local government is to implement state requirements, which are often tiered from Federal requirements such as U.S. Environmental Protection Agency (EPA) regulations. The Maryland Department of Environment (MDE) sets and enforces specific requirements in many areas, for example, water pollution. The MDE licenses wastewater treatment plants and drinking water purification facilities, two critical parts of a local community’s infrastructure.

Protecting drinking water from all forms of contamination is perhaps the number one local environmental issue, especially where rapid population growth, encroaching urbanization, and changing weather patterns are stressing water supplies. In periods of drought, the lower water table of regional aquifers may change the chemical balance and can cause exceedance of EPA or MDE allowable chemical concentrations, triggering expensive water treatment fixes.

In my experience, nothing causes more public concern than real or perceived contamination of water supplies. We had one episode about seven years ago involving the discovery of low levels of trichloroethylene in drinking water, an event prominently reported in the local papers. Someone calculated, however, that you could drink the water for 24 hours a day for 30 years, with no health impacts. Still, it eventually cost the town’s taxpayers about \$100,000 for additional treatment costs that I didn’t believe was necessary.

I am very sympathetic with DOE’s efforts to explain the results of risk assessment, in particular that very low levels of contaminants in groundwater need not be a big concern – and therefore need not drive decisionmaking – if they do not cause adverse impacts. DOE is fairly effective in bridging complex environmental issues from the top levels of government to the grass roots level, and should continue to pay particular attention to this effort in the NEPA process. 

EH Priority: Guidance to Improve NEPA Implementation

In a continuing effort to improve the efficiency of the DOE NEPA process and to foster greater consistency in DOE NEPA documents, the Office of NEPA Policy and Compliance is developing several priority guidance documents. These guidance initiatives are intended to support the Top-to-Bottom Review recommendations that were recently issued by the Office of Environmental Management – and are generally applicable to all of DOE – with respect to developing “a more streamlined, flexible, cost-effective process.” (See *LLQR*, March 2002, page 1.) Beverly Cook, Assistant Secretary for Environment, Safety and Health (EH), supports such guidance initiatives as a tool for improving performance. (See related article, page 1.)

Streamlining Floodplain/Wetland Process

In preparing the proposed revisions to the floodplain and wetland regulations (10 CFR Part 1022), the NEPA Office analyzed DOE’s experience in applying the existing requirements. According to our records, since 1994, DOE has prepared about 100 floodplain or wetland assessments. Under the proposed revisions to the regulations, which include several additional exemptions, only about half of those assessments would have been required. The proposed revisions would also simplify the public notification procedures by not regularly requiring *Federal Register* publication.

Accident analysis guidance, to supplement the general guidance in the “Green Book” (*Recommendations for the Preparation of Environmental Assessments and*

Environmental Impact Statements, May 1993), has been underway for several years. The NEPA Office received over 200 comments on the draft guidance circulated in April 2000. NEPA Compliance Officers (NCOs) will soon receive preliminary final guidance and a detailed response to comments. The guidance emphasizes using the “sliding scale” principle to give document preparers flexibility in approach while promoting consistency among DOE analyses.

Promoting Flexibility for Decisionmakers

The NEPA Office circulated draft guidance on interim actions (actions that may proceed during the NEPA process) to NCOs in March 2002 for comment and is now revising the guidance to address comments received. The NEPA Office is also consolidating and updating information on its policies regarding NEPA review for actions to be taken under the Comprehensive Environmental Response, Compensation and Liability Act and under the Resource Conservation and Recovery Act. The Office also plans to issue guidance that consolidates and enhances *LLQR* articles on alternatives analysis to aid the Department in structuring EISs and EAs to provide decisionmakers needed flexibility in meeting future requirements.

Coordination of draft guidance products with the Office of General Counsel and NCOs is ongoing, as shown in the chart below. The completed guidance products and the status of pending items will be discussed at the July NEPA Community Meeting. 

<i>Subject</i>	<i>Contact</i>	<i>Comments</i>
<i>Proposed revised regulations</i>		
Floodplain/Wetland Regulations (10CFR Part 1022)	Katherine.Nakata@eh.doe.gov	Planned to be published in the <i>Federal Register</i> in July 2002 for public comment.
<i>Guidance efforts underway for the Summer of 2002</i>		
Interim Actions	Brian.Mills@eh.doe.gov	Final guidance to be issued
Accident Analyses	Eric.Cohen@eh.doe.gov	Final guidance to be issued
CERCLA/RCRA/NEPA	Carolyn.Osborne@eh.doe.gov	Draft guidance for DOE coordination
Alternatives Analysis	Carolyn.Osborne@eh.doe.gov	Draft guidance for DOE coordination
Cooperating Agencies	Yardena.Mansoor@eh.doe.gov	Instructions regarding October report to CEQ on EISs and EAs initiated during March - August
<i>Planned guidance documents</i>		
Supplement Analyses	Jeanie.Loving@eh.doe.gov	Revisions underway to address comments on previous drafts
Section 216 Process	Brian.Mills@eh.doe.gov	
NEPA Compliance Guide	Carolyn.Osborne@eh.doe.gov	To include guidance issued since 1998

EPA Distributes Reminders on Filing an EIS

The Environmental Protection Agency's (EPA) Office of Federal Activities recently provided the Federal NEPA Contacts with notes on EPA's system for filing EISs. There are no new requirements, but reminders and clarifications.

Federal agencies may file an EIS with EPA no earlier than providing it to commenting agencies and the public, and must assure that the transmittal to the public has been performed when the EIS is filed. An EIS may be filed by delivering five bound copies (one of which EPA delivers to the Council on Environmental Quality) to:

U.S. EPA, Office of Federal Activities
EIS Filing Section, Room 7220
South Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC

To file an EIS by mail, use Zip Code 20460 and mail code 2252A; by a private delivery service, use Zip Code 20004 and phone number 202-564-2400.

Each Friday (or Thursday if Friday is a Federal holiday), the Office of Federal Activities publishes in the *Federal Register* a notice of availability that lists draft and final EISs filed during the week ending on the preceding Friday. A comment period for a draft EIS and the waiting period before an agency issues a record of decision after a final EIS both begin with publication of this notice of availability. For more information, call EPA's Auto Phone Service at 202-564-7167 or see EPA's Web site at www.epa.gov/oeca/ofa. 

Interior Department Welcomes "Electronic" EISs



Joining the trend towards conducting more Government business electronically, the Department of the Interior (DOI) now encourages agencies to meet DOI's needs for multiple copies of environmental review documents by submitting one paper copy and additional copies in an electronic format, such as CD-ROM or posting on the Web. DOI has accepted EISs by these methods for 3 years and now receives about 25 percent of EISs in computer-readable form.

"Overall, it's better for everybody," said Terry Martin, leader of DOI's Natural Resources Management Team. "It speeds our internal distribution and reduces costs of both distribution and storage. We're hoping this will reduce the bulk of documents that has to be mailed to us." DOI publicized these document submittal options in an April 16, 2002, letter to Federal agency NEPA Contacts.

DOI also used its April 2002 letter to remind Federal agencies of steps they should take to facilitate a timely, coordinated review of EISs by DOI's bureaus. Multiple copies of draft and final EISs should be sent to a single point of contact in DOI, which distributes the copies internally and consolidates comments:

Director, Office of Environmental Policy and Compliance
Department of the Interior
Main Interior Building, MS 2340
1849 C Street, NW
Washington, DC 20240

The number of copies to submit varies by region. For proposed actions in Minnesota, Iowa, Missouri, Arkansas, Louisiana, and states east, plus American Samoa, Guam,

Hawaii, Puerto Rico, the Virgin Islands, and Trust Territories, DOI requests 12 copies of a draft EIS and 6 copies of a final EIS; for proposed actions in Alaska, 16 copies of a draft EIS and 8 copies of a final EIS; for proposed actions in other states, 18 copies of a draft EIS and 9 copies of a final EIS. Multiple copies allow parallel reviews by DOI bureaus, thus speeding the review process. When an agency provides CD-ROMs or an address of a Web-posted EIS, DOI still requests one paper copy of each document for its files and other internal use.

-  *CD-ROM is not appropriate as the only format for public distribution of a NEPA document. (See "CD-ROM – A Useful Complement to Printed NEPA Documents?" LLQR, December 1999, page 8.)*
-  *EPA does not accept CD-ROM copies for filing an EIS.*
-  *Cost savings to an agency issuing some copies of an EIS on CD-ROM can be significant.*

Early coordination and scoping requests, stand-alone EAs, findings of no significant impact, and similar material of regional interest should be sent directly to DOI bureaus at the regional level. Regional Environmental Officers, who represent the DOI Office of Environmental Policy and Compliance, can assist in identifying appropriate contacts in the regional bureaus. Contact information for the Regional Environmental Officers is available at www.doi.gov/oepc/oepcinfo.html. For more information on DOI review procedures, contact Terry Martin, Team Leader, Natural Resources Management Team, at 202-208-5465 or terry_martin@ios.doi.gov. 

New on the NEPA Bookshelf

From time to time the Office of NEPA Policy and Compliance highlights (without endorsement) new books that may be useful or interesting to the DOE NEPA Community. (See “Book Reviews” in the *LLQR* cumulative index and “NEPA Practitioner’s Bookshelf” in volume II of the DOE NEPA Compliance Guide. Both are available on the DOE NEPA Web at tis.eh.doe.gov/nepa under “DOE NEPA Process Information” and “DOE NEPA Tools,” respectively.)

The National Environmental Policy Act: Judicial Misconstruction, Legislative Indifference, and Executive Neglect

Matthew J. Lindstrom and Zachary A. Smith
College Station, Texas: Texas A & M University Press; 2001
Phone: 800-826-8911
Internet: www.tamu.edu/upress
ISBN 1-58544-125-2; 208 pages; \$34.95

Beginning with the historical context in which passage of NEPA was possible and continuing through its first 30 years of implementation, Lindstrom and Smith examine the “divergence between enforcing the procedural actions required by NEPA and meeting its substantial policy values.” The authors, professors of political science at, respectively, Siena College and Northern Arizona University, contend that all branches of the Federal government have relegated the ambitious policy statement in section 101 of NEPA to the sidelines, while focusing almost exclusively on the procedural requirements involved with preparing NEPA documents. They believe this has led to some improvements in decisionmaking and



environmental quality, but that it has failed to live up to the potential expressed in NEPA.

The historical account of NEPA begins with the Act’s political and social origins. The book then discusses the legislative history, including the dynamic between Congress and the Nixon administration. The book evaluates implementation of the law, focusing on how its interpretation has been shaped over the years and especially on the role of the courts. The authors claim that the courts’ “unwillingness to challenge the discretionary judgment of federal agencies on environmental matters” led to a judicial focus on the procedural aspects of NEPA. This focus has raised the prominence of EISs while lessening the practical significance of the law’s broader ecological objectives.

The book concludes with a chapter briefly evaluating proposals for the future of NEPA. Lindstrom and Smith contend that with adequate presidential support, NEPA “could be a foundation for global sustainability.” The authors discuss potential reforms consistent with this goal, including a proposal that agency action could be conditioned or denied based on findings in an EIS, implementation of adaptive environmental management,

and increased staffing and budget for the Council on Environmental Quality. The authors also direct readers to several areas of potential improvement in the EIS preparation process, such as reducing page length, phasing out the reliance on contractors, increasing the linkage between risk assessment and action limitations or other mitigation, and strengthening social, cultural, and economic impact analysis.

Effective Environmental Assessments: How to Manage and Prepare NEPA EAs

Charles H. Eccleston
Boca Raton, Florida: Lewis Publishers; 2001
Phone: 800-272-7737
Internet: www.crcpress.com
ISBN 1-56670-559-2; 488 pages; \$69.95

The author, president of Environmental Planning and NEPA Services Corporation in Richland, Washington, draws on practical experience as a contractor to DOE, DOE NEPA guidance, *LLQR* articles, and NEPA case law to create a guide to the EA process. This book provides an overview of the NEPA process followed by a detailed discussion of the EA process, writing guidelines (documenting assumptions, readability, “will” and “would”), and three areas of impact analysis: cumulative impacts, accident analysis, and environmental justice.

The chapter on assessing significance, a reprint of an article by Frederic March of Sandia National Laboratories, discusses the considerations and procedures to be used in deciding whether potential impacts are significant. A final chapter addresses the finding of no significant impact (FONSI), including the implications of not preparing an EIS, documentation requirements, and the use of mitigation to support a FONSI.

The 138-page text is supplemented by six appendices. These include a reprint of NEPA and the Council on Environmental Quality NEPA regulations, a modified version of DOE’s EA checklist, and three environmental assessments, two of which were issued by DOE: *Continued Development of Naval Petroleum Reserve No. 3* and *Transfer of DOE Grand Junction Office to Non-DOE Ownership*. In brief critiques of these EAs, Eccleston highlights strengths and points to areas of potential improvement, including comments on the selection of alternatives, impact analysis, whether sections need be included in an EA, and writing and presentation techniques. 

NEPA Compliance Officer Transitions

WAPA: Farewell to Bill Karsell; David Swanson, Acting NCO

Bill Karsell, NEPA Compliance Officer (NCO) for the Western Area Power Administration (Western) Corporate Services Office (CSO) for 8 years, is now the Chief of the Environmental Services Division for the Bureau of Reclamation's Technical Service Center. Karsell was the leader of Western's NEPA program, where as Environment Manager since 1991, he coordinated Western-wide NEPA work for four regions, covering all or part of 15 western states. Karsell now oversees more than 100 technical support personnel working in terrestrial and aquatic ecology, environmental research, water treatment engineering, remote sensing, and economics.

Western's CSO has not decided when its Environment Manager position will be filled. Two existing Western NCOs will be detailed to the Environment Manager position: Shane Collins from Western's Colorado River Storage Project Management Center in Salt Lake City, Utah, between June 2 and July 13, and Nick Stas from Western's Upper Great Plains Region in Billings, Montana, between September 3 and October 19. Other Western employees also will be detailed to the Environment Manager position. David Swanson, an experienced NEPA Document Manager, will act as the Western CSO NCO until the position is permanently filled. He can be reached at swanson@wapa.gov or 720-962-7261.

Naval Petroleum Reserves in Colorado, Utah, and Wyoming: Farewell to David Miles; Welcome to Don Ross

David Miles, the original NCO (since 1991) of the Office of Naval Petroleum and Oil Shale Reserves in Colorado, Utah, and Wyoming, recently retired. He has been traveling, fishing, planning future hunting trips, and building a new home in Mexico. We wish David well in his retirement.

The Office's new NCO is Don Ross, the Environment, Safety and Health Manager for the Teapot Dome oilfield (NPR-3) and Rocky Mountain Testing Center located near Casper, Wyoming. He has worked in various environmental and engineering capacities for the U.S. Geological Survey, Minerals Management Service, Bureau of Land Management, and DOE. Mr. Ross can be reached at don.ross@rmtoc.doe.gov or 307-437-9610.

Peter Siebach Is Chicago NCO

Environmental engineer Peter R. Siebach has joined the Office of Safety and Technical Services at the Chicago Operations Office and has been designated NCO. For the previous 12 years, he was with DOE's Environmental Management program – for the last five years in Chicago as a senior program manager for the Center for Risk Excellence. Before that, he worked for Environmental Management in Germantown overseeing the Albuquerque Operations Office Waste Management Program. He has contributed to the Waste Management Programmatic EIS and several site-wide EISs. Mr. Siebach has a B.S. in Engineering Geology and a M.S. in Environmental Remote Sensing (Civil Engineering). He can be reached at peter.siebach@ch.doe.gov or 630-252-2007.

Grand Junction Project Office Names Tracy Plessinger as NCO

Tracy Plessinger has been designated NCO for categorical exclusions for the Grand Junction Project Office (which formerly managed the Uranium Mill Tailings Remedial Action Project under the Albuquerque Operations Office; now an Environmental Management office under the Idaho Operations Office). Ms. Plessinger is currently a Project Manager supporting the nearby Moab Site Project. Previously, she was an environmental compliance specialist for the Office, served as NEPA Document Manager, managed environmental restoration projects, and served as team leader for technical and support staff. Ms. Plessinger can be reached at tplessinger@gjo.doe.gov or 970-248-6197.

Jeff Robbins, Acting NCO for Amarillo Site Operations

Jeff Robbins, NCO of the Albuquerque Operations Office, now also serves as Acting NCO for the NNSA Office of Amarillo Site Operations. He can be reached at jfrobbins@doeal.gov or 505-845-4426. 

What's New from CEQ

Chair Addresses Senior NEPA Liaisons

The five goals of the Bush Administration – Stewardship, Science-based Decisionmaking, Federalism, Innovation, and Compliance – fit well with the NEPA process, according to James L. Connaughton, Chair of the Council on Environmental Quality (CEQ). Speaking at the first meeting of senior agency NEPA Liaisons on March 4, 2002, he affirmed CEQ's overarching commitment to the "value of a vibrant NEPA program."

His goal is to "eliminate opportunities for NEPA issues to arise." NEPA should not be viewed as a "project," he said, but as a management tool. "There is an environmental dimension to day-to-day government operations," according to Connaughton. He encouraged the group of senior government officials to help make NEPA a "way of life, not something that gets in the way."

Environmental Management Systems Emphasized

CEQ Chair James Connaughton and Office of Management and Budget (OMB) Director Mitchell Daniels sent a memorandum on April 1 to the heads of Federal agencies emphasizing the importance of developing Environmental Management Systems. Under Executive Order 13148 (65 FR 24595; April 26, 2000), Federal agencies are required to implement Environmental Management Systems at all applicable facilities by the end of 2005. The memorandum is available at www.whitehouse.gov/ceq/memoranda01. [The June 2002 National Association of Environmental Professionals Conference will include a session on Environmental Management Systems and NEPA. See related article on page 2.]

NEPA Task Force Underway

CEQ's NEPA Task Force was established in April and convened in late May 2002. The Task Force will seek ways to improve and modernize NEPA analyses and documentation. In addition to considering technology and information security issues, the NEPA Task Force will explore opportunities where greater clarity in NEPA guidance or procedures could afford greater efficiencies in analysis.

Task Force modernization projects include guidance on the use of technology and addressing information security concerns. In addition, recommendations to modernize practices and procedures will address issues that include Federal and inter-governmental collaboration,

programmatic analyses and tiering, and adaptive management. A "best practices" pamphlet will be published and posted on the Web.

The NEPA Task Force will operate for approximately six months. A notice and request for comments is being developed and will, in addition to formal publication and distribution, be sent to the senior agency NEPA Liaisons and Federal NEPA Contacts. For further information, please contact Lee Jessee, DOE's representative to the Task Force, at lee.jessee@eh.doe.gov, or call 202-586-7600 or 202-456-5433.

Upcoming NEPA Contacts Meeting

CEQ will meet next with Federal NEPA Contacts on June 12 in Washington, DC. The agenda includes an opportunity for the liaisons to meet the NEPA Task Force and discussion of cooperating agency reporting. (See "CEQ Guidance Encourages Agency Cooperation," *LLQR*, March 2002, page 1.) The NEPA Contacts also will discuss agency guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by Federal agencies. *LLQR* will report on this meeting in the September 2002 issue.

[Data quality will be a topic of work for the NEPA Task Force and for DOE's NEPA Community. Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554; H.R. 5658) directed the OMB to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies."

OMB issued final guidelines on February 22, 2002 (67 FR 8452), under which agencies must issue their own final guidelines by October 21, 2002. OMB also established interim milestones for agencies, including publishing draft guidelines on agency Web sites by May 1, 2002, and submitting draft final guidelines to OMB for review by July 1, 2002. DOE has not yet published its draft guidelines. OMB directed that agency final guidelines must include "administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency."] 



Training Opportunities

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

- **Overview of the NEPA Process**

Phoenix, AZ: June 11
Portland, OR: September 17
Atlantic City, NJ: November 5
Fee: \$195

- **Reviewing NEPA Documents**

Phoenix, AZ: June 12-14
Portland, OR: September 18-20
Atlantic City, NJ: November 6-8
Fee: \$795

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

Atlantic City, NJ: June 18-21
Phoenix, AZ: June 18-21
San Francisco, CA: August 13-16
Las Vegas, NV: October 8-11
Jacksonville, FL: December 10-13
Billings, MT: December 10-13
Fee: \$995

- **Risk Communication: Strategies & Implementation**

San Diego, CA: July 16-18
Fee: \$795

- **Cumulative Impacts, Analysis and Documentation**

San Antonio, TX: July 23-24
Fee: \$595

- **How to Create and Manage an Interdisciplinary Team**

Atlantic City, NJ: August 19-20
San Francisco, CA: October 21-22
Fee: \$595

- **Clear Writing for NEPA Specialists**

Atlantic City, NJ: August 21-23
San Francisco, CA: October 23-25
Fee: \$795

- **Overview of the Endangered Species Act and Section 106 of the National Historic Preservation Act**

Phoenix, AZ: September 26
Las Vegas, NV: December 5
Fee: \$245

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

- **The Law of NEPA**

Durham, NC: September 25-27
Fee: \$670

*Office of Continuing and Executive Education
Nicholas School of the Environment
and Earth Sciences
Duke University
919-613-8083
sea3@duke.edu
www.env.duke.edu/cee/execed.html*

- **Socioeconomic Impact Analysis Under NEPA**

Durham, NC: October 9-11
Fee: \$670

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

Durham, NC: October 28 - November 1
Fee: \$990

*Nicholas School of the Environment
and Earth Sciences
Levine Science Research Center
Duke University
919-613-8082
lsheafer@duke.edu
www.env.duke.edu/cee/execed.html*

- **NEPA Toolbox™ Training**

Several courses are available, including essentials, a management overview, public participation, and a variety of subjects specific to EA and EIS preparation. Dates and locations may be set at an agency's convenience through the Proponent-Sponsored Training program, whereby the agency sponsors the course and recruits participants, including from other agencies. A distance learning curriculum is expected to be available by the end of summer. Services are available to Federal agencies through GSA Contract No. GS-10F-0163L (899-3).

*Environmental Training & Consulting
International, Inc.
720-859-0380
info@envirotrain.com
www.envirotrain.com*



Litigation Updates

South Carolina Sues to Stop Plutonium Shipments to Savannah River Site

On May 1, the State of South Carolina filed a lawsuit against DOE claiming violations of NEPA and the Administrative Procedure Act (APA) and asking the court to halt shipments of surplus plutonium from the Rocky Flats Environmental Technology Site (RFETS) or any other site to the Savannah River Site (SRS). At issue is the Department's amendment (67 FR 19432; April 19, 2002) of its Records of Decision (RODs) for the *Storage and Disposition of Weapons-Usable Fissile Materials PEIS* (DOE/EIS-0229, December 1996) and the *Surplus Plutonium Disposition EIS* (DOE/EIS-0283, November 1999).

The April 2002 amended ROD announced DOE's decision to cancel plans to immobilize a portion of the nation's surplus plutonium inventory. Immobilization was included in the earlier RODs, along with conversion of most of the plutonium to mixed-oxide (MOX) fuel for use in a commercial reactor prior to disposal. DOE now proposes to complete all surplus plutonium disposition through the MOX approach. As noted in the amended ROD, DOE is evaluating the need for additional NEPA review for changes to the MOX fuel portion of the surplus plutonium disposition strategy.

Shipment of plutonium to SRS had been contingent upon the site's selection as the location for plutonium

immobilization. The amended ROD sets that contingency aside, stating that the new plutonium disposition strategy, which eliminates the immobilization component, removes the basis for the contingency. Instead, DOE designates SRS as the location for consolidated long-term storage of the surplus plutonium now stored at RFETS. South Carolina challenged this action, claiming that the amended ROD is not adequately supported by NEPA reviews and that a supplemental EIS is required to analyze long-term storage at SRS and other aspects of the Department's new strategy.

South Carolina contends that DOE violated the APA in failing to provide the State adequate notice and opportunity to comment before announcing its new strategy. An additional claim by South Carolina under the APA challenges DOE's issuance of a national security exemption for the DT-22 shipping container to transport plutonium from RFETS. In a press release of May 16, 2002, however, DOE announced that no DT-22 containers will be used to transport certain weapons-related materials from Rocky Flats to either the Lawrence Livermore or Savannah River facilities. Instead, DOE will re-size such materials for shipment in certified Type B containers. (See "Planned Shipments of Plutonium Composite Parts," *LLQR*, March 2002, page 19, regarding a separate legal challenge related to DOE's use of the DT-22.) **LL**

Lawsuit Filed over Permits for U.S.-Mexico Transmission Lines

The Border Power Plant Working Group, a coalition of public interest groups and citizens from California, Arizona, and Mexico, filed suit on March 19, 2002, in the U.S. District Court for the Southern District of California challenging the adequacy of DOE's EA and FONSI for permits for two transborder electric power transmission lines, *Presidential Permit Applications for Baja California Power, Inc. and Sempra Energy Resources* (DOE/EA-1391, December 2001).

The EA evaluated construction and operation of two transmission lines from a substation in Imperial County, California, to the U.S.-Mexico border, about six miles through lands managed by the Bureau of Land Management, a cooperating agency in the EA. At the border, the lines would connect with transmission lines to separate power plants under construction about three miles inside Mexico. The transmission lines would be used to supply up to 1,200 MW of electricity from the

new plants to the southern California market. On occasion, the transmission lines would be used to supply startup power from the U.S. to the plants in Mexico.

The Border Power Plant Working Group claims that construction and operation of the transmission lines, construction and operation of a natural gas pipeline across the U.S.-Mexico border to supply fuel to the power plants, and operation of the power plants are connected actions that require an EIS. The coalition also states that the EA does not adequately consider cumulative impacts, including deterioration of air and water quality and risks to the Salton Sea Wildlife Refuge in southeastern California. The coalition asks the court to set aside the Presidential Permits that DOE granted until DOE prepares an EIS that evaluates alternatives, fully examines potentially significant impacts, considers connected actions and cumulative impacts, and identifies mitigation. **LL**

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Litigation Updates (continued from page 13)

Court Reinstates Sierra Club Challenge in Rocky Flats Mining Case

On April 19, the U.S. Court of Appeals for the 10th Circuit reversed and remanded the district court's dismissal of a lawsuit by the Sierra Club against DOE and the U.S. Army Corps of Engineers. In February 2001, the lower court had dismissed the action as premature (*LLQR*, March 2001, page 13). The appeals court found, however, that the plaintiff's NEPA and Endangered Species Act (ESA) claims are ripe for review and that the Sierra Club has standing to raise those claims.

The lawsuit stems from DOE's application of a categorical exclusion to issue an easement to a private company for a road through the buffer zone around the Rocky Flats Environmental Technology Site. The road would be used to support expansion of the company's existing gravel mine, located just outside the buffer zone, to include approximately 425 acres located in the buffer zone. The district court held that the Sierra Club's lawsuit is

premature because of the many procedural steps yet to be completed before the decision whether to construct the road. The appeals court found to the contrary, that the suit is ripe for adjudication because DOE's decision to issue the easement was not informed by the analyses required by NEPA and the ESA. The uncertainty surrounding the eventual construction of the road did not relieve DOE of its NEPA and ESA obligations with regard to issuing the easement.

The appeals court also determined that the Sierra Club has standing to pursue the lawsuit because the organization "established that its members have worked to protect both the Buffer Zone's wetlands and the 'threatened' [Preble's meadow jumping mouse], and have used the area in the Buffer Zone for recreational and educational purposes." 

Proposals Due for New DOE-wide Contracts

By: David A. Gallegos, *DOE-wide NEPA Contract Administrator*

The recompetition of the DOE-wide NEPA contracts is now underway. Solicitations DE-RP04-02AL67952 (Full and Open Competition) and DE-RP04-02AL67464 (Small Business Set-Aside Competition) were posted on May 9, 2002, on the DOE e-Center Website at <http://e-center.doe.gov>. Proposals are due by June 10, 2002. DOE contemplates multiple awards of indefinite delivery, indefinite quantity contracts. The period of performance for the contracts will be five years.

The contracts would be for preparation of EISs and EAs under NEPA and for preparation of environmental reports and related documentation required by the Nuclear Regulatory Commission in its review of license applications. The contracts would also be for compiling environmental information, conducting environmental analyses and activities required under an Executive Order or under another environmental statute and its implementing regulations (e.g., biological assessments under the Endangered Species Act), and evaluating information in NEPA documents.

Because new contracts will not be awarded before the current contracts with Science Applications International Corporation and TetraTech, Inc., expire, these will likely be extended an additional 30 to 90 days, depending on the number and quality of new proposals received. If you anticipate issuing a task order after June 17, 2002, please contact David A. Gallegos, DOE-wide NEPA Contract Administrator, at 505-845-5849 or dgallegos@doeal.gov. 

EAs and EISs Completed, January 1 to March 31, 2002

EAs

**Albuquerque Operations Office/
Office of Los Alamos Site Operations**
DOE/EA-1364 (2/26/02)
*Proposed BioSafety Level 3 Laboratory at
Los Alamos National Laboratory, Los Alamos,
New Mexico*
Cost: \$107,000
Time: 17 months

DOE/EA-1410 (3/28/02)
*Proposed Disposition of Omega West Facility
Los Alamos, New Mexico*
Cost: \$107,000
Time: 12 months

Bonneville Power Administration
DOE/EA-1366 (1/29/02)
*Santiam-Bethel Tap 230 kV Transmission Line
Project, Oregon*
Cost: \$92,000
Time: 15 months

Fossil Energy
DOE/EA-1380 (1/16/02)
*Presidential Permit Application, Northern States
Power/Xcel Energy Inc., Rugby, North Dakota*
Time: 12 months
[Note: The cost for this EA was paid by the applicant;
therefore, cost information does not apply to DOE.]

**Richland Operations Office/
Environmental Management**
DOE/EA-1405 (3/22/02)
*Transuranic (TRU) Drum Retrieval in the 218-W-4B
and 218-W-4C Low-Level Burial Grounds, Hanford
Site, Richland, Washington*
Cost: \$24,000
Time: 7 months

EIS

Bonneville Power Administration
DOE/EIS-0324 (67 FR 4959, 2/1/02)
(EPA Rating: LO)
Umatilla Generating Project
Time: 15 months
[Note: The cost for this EIS was paid by the
applicant; therefore, cost information does not apply
to DOE.]

NEPA Document Cost and Time Facts

EA Cost and Completion Times

- For this quarter, the median cost of four EAs for which cost data were applicable was \$99,000 (EA-1380 was paid for by the applicant); the average was \$82,000.
- Cumulatively, for the 12 months that ended March 31, 2002, the median cost for the preparation of 19 EAs was \$80,000; the average was \$82,000.
- For this quarter, the median completion time of five EAs was 12 months; the average was 13 months.
- Cumulatively, for the 12 months that ended March 31, 2002, the median completion time for 25 EAs was 8 months; the average was 9 months.

EIS Costs and Completion Times

- Cumulatively, for the 12 months that ended March 31, 2002, the median cost for the preparation of 3 EISs for which cost data were applicable was \$1.5 million. The average cost was \$1.8 million.
- Cumulatively, for the 12 months that ended March 31, 2002, the median completion time for 6 EISs was 22 months; the average was 30 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 es.epa.gov/oeca/ofa/rating.html
for a full explanation of these definitions.)

Recent EIS-Related Milestones (March 1 to May 31, 2002)

Notice of Intent

Bonneville Power Administration

DOE/EIS-0317

Supplemental Draft Environmental Impact Statement for the Kangley-Echo Lake Transmission Line
May 2002 (67 FR 34917, 5/16/02)

Draft EISs

Bonneville Power Administration

DOE/EIS-0332

McNary-John Day Transmission Line Project
March 2002 (67 FR 10712, 3/8/02)

DOE/EIS-0333

Maiden Wind Farm Project
March 2002 (67 CFR 15193, 3/29/02)

Richland Operations Office/Environmental Management

DOE/EIS-0286

Hanford Site Solid (Radioactive and Hazardous) Waste Program, Washington
May 2002 (67 FR 36592, 5/24/02)

Final EIS

Savannah River Operations Office/Environmental Management

DOE/EIS-0303

Savannah River Site High-Level Waste Tank Closure, South Carolina
May 2002 (67 FR 38100, 5/31/02)

Records of Decision

Bonneville Power Administration

DOE/EIS-0230

Resource Contingency Program, Electrical Interconnection of the Satsop Combustion Turbine Project
May 2002 (67 FR 30905, 5/8/02)

National Nuclear Security Administration

Amended Record of Decision, Surplus Plutonium Disposition Program

April 2002 (67 FR 19432, 4/19/02)

[Amended Records of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic EIS (DOE/EIS-0229) and Surplus Plutonium Disposition EIS (DOE/EIS-0283)]

Oak Ridge Y-12 National Security Complex/ National Nuclear Security Administration – Defense Programs

DOE/EIS-0309

Site-wide for the Y-12 Plant, Oak Ridge, Tennessee
February 2002 (67 FR 11296, 3/13/02)

Supplement Analyses

Bonneville Power Administration

Watershed Management Program

(DOE/EIS-0265)

DOE/EIS-0265/SA-77

Methow Valley Fish Screening Project, McKinley Mountain Screen Replacement and Rockview Screen Decommissioning and Replacement with a Well
(Decision: No further NEPA review required)
March 2002

DOE/EIS-0265/SA-78

Yakima Basin Side Channels Project, Scatter Creek/ Plum Creek Land Acquisition Phase II
(modification to DOE/EIS-0265/SA-72)
(Decision: No further NEPA review required)
May 2002

Transmission System Vegetation

Management Program (DOE/EIS-0285)

DOE/EIS-0285/SA-39

Vegetation Management Along the Allston-Keeler 500kV Transmission Line Right-of-Way, Lands Between 1/1 through 29/1, Excluding BLM Land
(Decision: No further NEPA review required)
February 2002*

*Not previously reported in LLQR

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Recent EIS-Related Milestones (March 1 to May 31, 2002) (continued from previous page)

Supplement Analyses (continued)

DOE/EIS-0285/SA-40

Vegetation Management Along the Allston-Keeler 500 kV Transmission Line Right-of-Way Exclusive to BLM Lands Between 8/4 through 27/4
(Decision: No further NEPA review required)
February 2002*

DOE/EIS-0285/SA-41

Vegetation Management Around Wood Poles in 41 Transmission Line Rights-of-Way
(Decision: No further NEPA review required)
February 2002*

DOE/EIS-0285/SA-45

Benton County Noxious Weed Management Along 35 Rights-of-Way, Structures and Roads
(Decision: No further NEPA review required)
February 2002*

DOE/EIS-0285/SA-46

Franklin County Noxious Weed Management Along 14 Transmission Rights-of-Way Structures, Roads and Switches
(Decision: No further NEPA review required)
February 2002*

DOE/EIS-0285/SA-54

Ross Transmission Lines 1 and 2
(Decision: No further NEPA review required)
March 2002

DOE/EIS-0285/SA-59

Vegetation Management Along the Chehalis Covington/River Paul/Paul Alston 230 and 500 kV Transmission Line Corridor Right-of-Way 48/2 to 70/6 and 1/1 to 13/4
(Decision: No further NEPA review required)
April 2002

DOE/EIS-0285/SA-60

Vegetation Management Along the Bell-Boundary No. 3, 84/4 to 96/1 Transmission Line Right-of-Way
(Decision: No further NEPA review required)
April 2002

DOE/EIS-0285/SA-61

Vegetation Management Along the Rocky Reach – Maple Valley No. 1 Transmission Line Right-of-Way from Structure 110/1 to the Maple Valley Substation
(Decision: No further NEPA review required)
April 2002

DOE/EIS-0285/SA-62

Vegetation Management Along the Rocky Reach – Maple Valley No. 1 Transmission Line Right-of-Way from Structure 98/2 to Structure 110/1
(Decision: No further NEPA review required)
April 2002

DOE/EIS-0285/SA-75

Gourlay Creek Fish Ladder Project
(Decision: No further NEPA review required)
February 2002*

*Not previously reported in LLQR

What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1B requires the Office of NEPA Policy and Compliance to solicit comments on lessons learned in the process of completing NEPA documents and distribute quarterly reports. This Quarterly Report covers documents completed between October 1, 2001 and March 31, 2002.

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

- *Public Input.* The EA process helped us to change our preferred alternative to one that was acceptable to the public while still meeting our needs.

What Didn't Work

- *Lack of understanding.* The first and most pervasive problem for this EA was the concept of bounding analysis and communicating that to the environmental restoration folks...they actually argued long and hard to not use the term at all. Unfortunately, they didn't have enough detail to do anything other than a bounding analysis so they lost that round.

Data Collection/Analysis

What Didn't Work

- *Late data.* Late responses to data calls caused last minute delays until late data could be evaluated.
- *Information gathering.* Getting information about potential environmental restoration/D&D activities is about as easy as catching a greased pig at a county fair.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Following deadlines.* Close adherence to deadlines; conference calls and meetings to communicate problems early on; and close contact with program and field contacts as well as with General Counsel facilitated timely completion of the EIS.

Factors that Inhibited Timely Completion

- *Several rounds of comments.* Several rounds of comments and revisions of the draft document were needed because reviewers always seemed to come up with additional comments that were not addressed in previous revisions.
- *Change in alternatives.* A major change in alternatives inhibited completion of the EIS.
- *9/11 concerns.* A need to consider post-9/11 sensitivity concerns was identified late in the EA review process and added several weeks delay.
- *Outside agency concurrence.* Obtaining concurrence from other agencies inhibited completion of the EA.
- *Too much work.* An NCO inundated with work and unwilling to delegate authority to others slowed completion of the EA.
- *Requiring many pre-drafts and drafts.* Currently it is required that the contractor prepare and submit a 50%, 90%, 100%, Draft Pre-Decisional Draft, Pre-Decisional Document, Draft Final Document, and finally a Final Document. I found this process to be very ineffective, as what is required for the 50% and 90% drafts contribute little to the technical analysis and conclusions.

Factors that Facilitated Effective Teamwork

- *Interaction and cooperation.* We had excellent interaction and cooperation with the contractors who worked on the EA. Frequent meetings were held with key managers and authors for the document.
- *Frequent meetings.* Biweekly status meetings among the DOE NEPA Document Manager, document contractor, and site management contractor were an excellent forum for working issues and reinforcing teaming.

continued on next page

What Worked and Didn't Work in the NEPA Process

(continued from previous page)

Factors that Inhibited Effective Teamwork

- *Reviewing not prompt.* People were not prompt in reviewing the document due to other work priorities.
- *Lack of teamwork.* When people are argumentative or abuse their authority, this can be very upsetting and disturbing to team members. The cohesiveness that is so important to teamwork erodes and so the team essentially ceases to be a team. It is always beneficial to keep one's temper, not to be confrontational, and to respect the dignity of others. If everyone gets along, and there is a spirit of teamwork, things get accomplished.
- *Not using contractors effectively.* The method used to convey comments by a member of the team was to redraft large portions of the document and provide that back to the contractor. This method defeats the intent of hiring a contractor to prepare the document. It also does not enable the contractor to benefit from an assumed dialogue which would normally be pursued had the comments been pre-prepared. A comment is typically prepared as such: "Page 3, Section A, Title of section, delete the following phrase xx, page xx, as per xx. Replace the phrase with the following, XX." Providing a comment in this format actually benefits both the DOE and the contractor, as in this process DOE communicates that that contractor failed to meet a DOE requirement, what the requirement is, a proposed fix and the contractor knows not to make the mistake again.

Process

Successful Aspects of the Public Participation Process

- *Provided information at a stakeholder's meeting.* We provided information about the EA to the Trustee council that was meeting during the comment period in addition to our normal letter notification.
- *Public meeting instead of public hearing.* The public meeting was an open forum for conversing with the public rather than a formal public hearing.

Unsuccessful Aspects of the Public Participation Process

- *Irrelevant comments.* Too often the public participation process becomes an avenue for the public to vent its frustrations on DOE. DOE spends a huge amount of wasteful time reviewing and responding to comments that don't warrant a response.
- *Inadequate DOE participation.* We briefed stakeholders in the area separately at their request – unfortunately, for the briefing with the closest and most adversely disposed stakeholder to our EA issues, the document manager didn't notify me and the public relations person that he wouldn't be showing up, nor did he send anyone knowledgeable about the project in his place...I did the best I could but it had an overall bad effect on our local relationship with the stakeholder and wasn't a successful experience.

Usefulness

Agency Planning and Decisionmaking

What Worked

- *Two versions.* Post 9/11 issues were resolved by producing two versions of the EA: Hard copy with all maps etc. and an electronic copy without maps etc.
- *Integration of a Site Plan.* The EA process helped the contractor firm up the site plans. The 10-year Comprehensive Site Planning process and NEPA are actually going to be walking hand-in-hand. The two planning processes surely facilitate informed and sound decisionmaking!

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What Worked and Didn't Work in the NEPA Process

(continued from page 19)

Agency Planning and Decisionmaking

What Didn't Work

- *Lack of document specifics.* EA preparation costs could be cut by providing more up front specifics to contractors.

Guidance Needs Identified

- One respondent suggested that further guidance from DOE-HQ should be made available to help sites determine when an issue constitutes a level of national significance that requires an EA to be announced in the *Federal Register*.
- One respondent suggested that guidance on facility disposition projects is needed. The respondent noted that, although some disturbances occur during a disposition project, there is an overall environmental benefit to removing an excess structure and enabling nature to restore the site to its previous state.

Note: The NEPA Office will address these guidance needs in future issues of LLQR.

Enhancement/Protection of the Environment

- The approved activity will pull several thousand transuranic waste drums out of the ground.
- The environment was little changed directly by this impact analysis process...but indirectly the larger process will result in protection and enhancement of the environment.

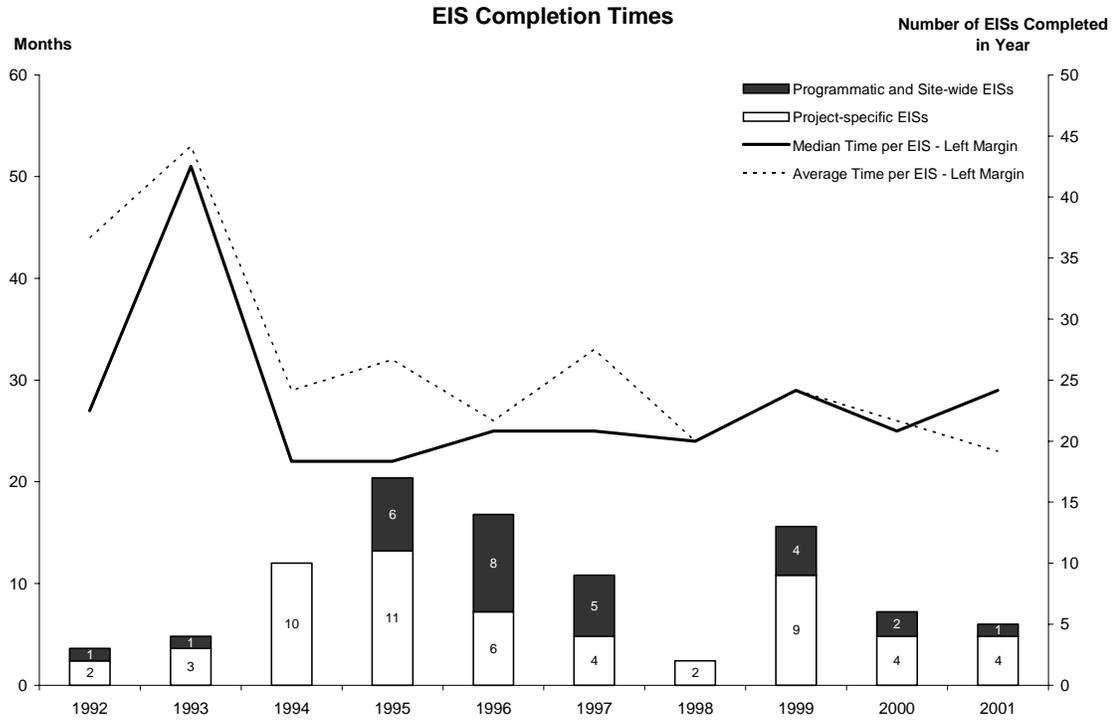
Effectiveness of the NEPA Process

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

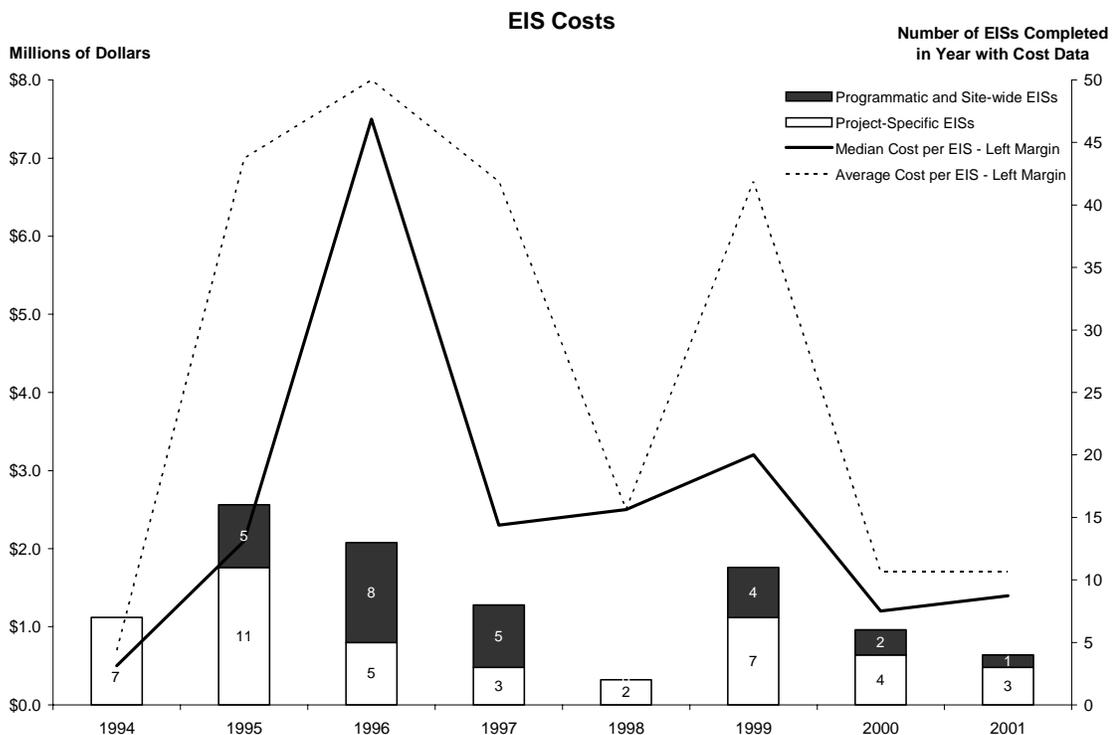
For the past two quarters in which there were nine EAs and one EIS, eight out of nine respondents rated the NEPA process as "effective."

- A respondent who rated the process as "5" stated that the decision may have been already made, but the NEPA process confirmed that this decision was the technologically sound and environmentally responsible way to go.
- One respondent who rated the process as "2" stated that the alternatives evaluated in the document were "black or white" with no in-between alternatives available.
- One respondent who rated the process as "3" stated that the NEPA process assisted in decision making for siting two new replacement facilities for existing plant processes.
- A respondent who rated the process as "2" explained that the project decision reflects a 30-year old DOE policy and a ROD from a previous EIS. **LL**

EIS and EA Cost and Time Trends

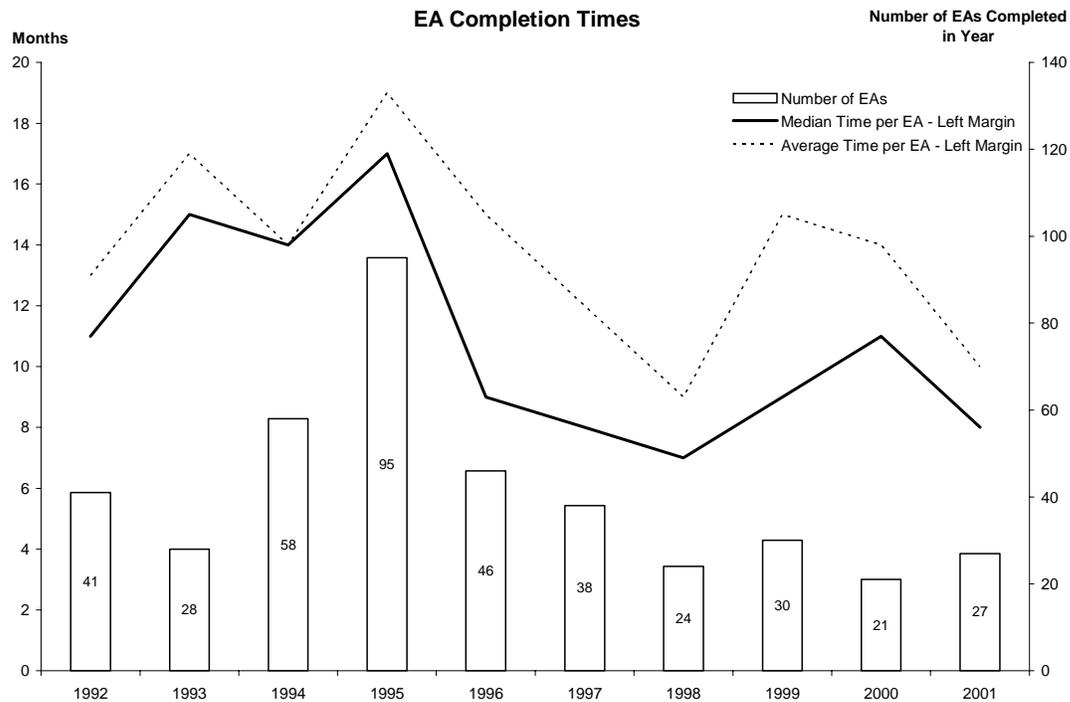


After peaking at a median of over 50 months in 1993, EIS completion times decreased in 1994, and have since remained relatively constant, with median completion times varying between 22 and 29 months.

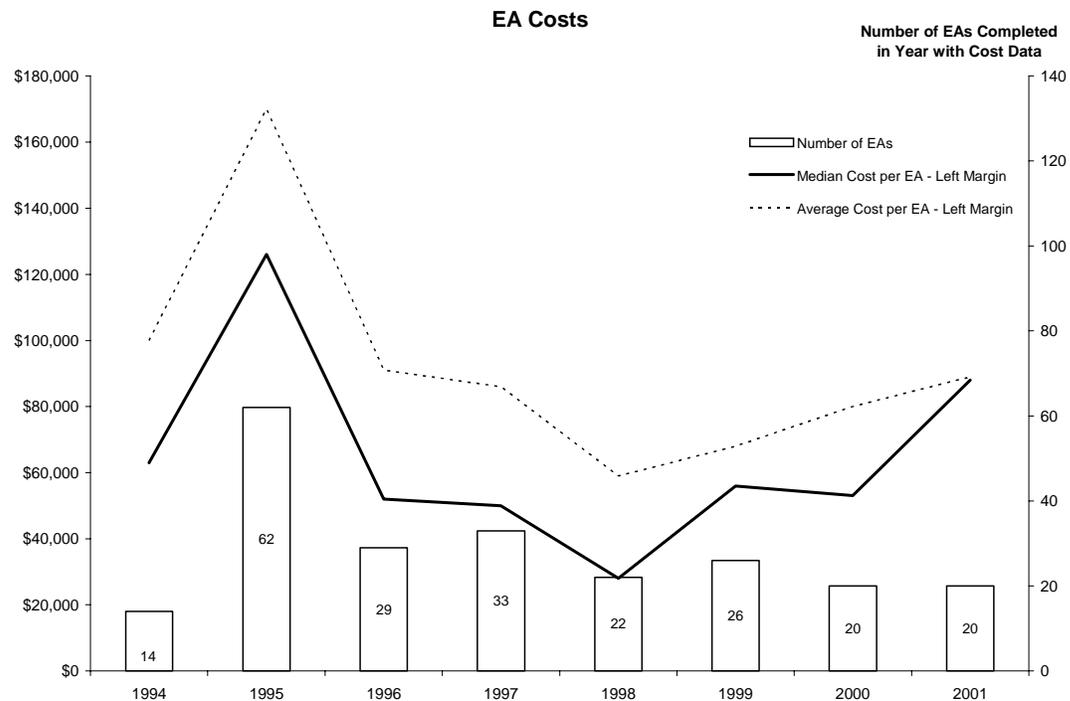


DOE started compiling cost data for its EISs in 1994. From 1994 to 2001, costs varied widely, from an average of \$732,000 per EIS in 1994, to an average of \$8,000,000 in 1996. Costs in 2000 and 2001 declined to the lowest values since 1994 (about \$2.6 million for programmatic and \$1.3 million for project-specific EISs), reflecting the completion of 25 programmatic and site-wide EISs.

EIS and EA Cost and Time Trends (continued from page 21)



Median EA completion times decreased substantially from a peak of about 17 months for documents completed in 1995, when the number of EAs peaked at 95, to about 8 months for 27 EAs completed in 2001.



DOE started compiling cost data for its EAs in 1994. The annual average cost to prepare an EA decreased from 1995 (about \$170,000) to 1998 (about \$60,000). During this period, the number of EAs completed each year also decreased from about 60 to 20. Since 1998 the number of EAs completed each year has remained about the same; however, the average cost per EA has been trending upwards, reaching \$89,000 in 2001. Reasons for the EA cost increase are unclear.



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