NEPA

National Environmental Policy Act

LESSONS LEARNED

U.S. DEPARTMENT OF ENERGY QUARTERLY REPORT

December 1, 2006; Issue No. 49 Fourth Quarter FY 2006

NNSA Pursues Complex 2030 Vision Through Supplemental Programmatic EIS

The National Nuclear Security Administration (NNSA) began preparation of a Supplemental Programmatic Environmental Impact Statement (Supplemental PEIS) in October 2006 to support its long-range planning for the U.S. nuclear weapons complex. The Supplemental PEIS will analyze the potential environmental impacts from "implementing NNSA's vision of the complex as it would exist in 2030, which the Department refers to as Complex 2030, as well as alternatives," states the Notice of Intent (NOI) (71 FR 61731; October 19, 2006).

"The Supplemental PEIS is an essential part of making quality decisions to transform our nuclear weapons enterprise," said George Allen, Director, Office of Transformation, which was created within NNSA earlier this year to guide and oversee Complex 2030 planning. "This is particularly true for decisions affecting our physical infrastructure," he said.

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Scoping Process Underway for Two Yucca Mountain EISs

The Department of Energy (DOE) recently initiated public scoping for two EISs related to Yucca Mountain, the Nation's proposed repository for disposal of commercial and DOE spent nuclear fuel and high-level radioactive waste. The Office of Civilian Radioactive Waste Management has announced plans to complete both EISs by June 2008, with interim milestones for both EISs approximately the same.

NEPA practitioners may be interested in the integration of the public scoping processes for the two EISs and in the evolution of the Rail EIS, which will contain both programmatic and project-specific elements.

The public scoping process for the two EISs began with the issuance of two *Federal Register* notices on October 13, 2006: an Amended Notice of Intent (NOI) to expand the scope of an EIS on the selection of a rail alignment in Nevada, and an NOI to update the Department's 2002 Repository EIS.

"We recognized early on that close coordination between the EIS preparation teams would be essential to meet the logistical challenges of preparing two major EISs for Yucca Mountain on the same schedule," said Lee Bishop, Document Manager for the expanded Rail EIS.

Dr. Jane Summerson, Document Manager for the Supplemental Yucca Mountain Repository EIS and for the original Repository EIS, agreed. "Preparing one highly-complex EIS is challenging enough," she said, "but with the job of preparing two documents, each a supplement to the Repository EIS, we also recognized the importance of explaining our plans to the public so they can be involved effectively in the processes."

With that objective in mind, DOE decided to integrate the public scoping meetings for the two EISs so that members of the public could provide comments on either EIS at each meeting. Representatives for both EISs were present at all meetings to receive comments.

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Inside *LESSONS LEARNED*

Welcome to the 49th quarterly report on lessons learned in the NEPA process. In this issue, we feature the initiation of three significant EISs: the Complex 2030 Supplemental Programmatic EIS, the Supplemental Yucca Mountain Repository EIS, and the expanded Yucca Mountain Rail EIS. As always, we welcome your suggestions for continuous improvement.

Carol Borgstrom
Director
Office of NEPA Policy and Compliance

Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions, comments, and contributed drafts for the *Lessons Learned Quarterly Report.* We especially seek case studies illustrating successful NEPA practices. Draft articles for the next issue are requested by February 1, 2007. Contact Yardena Mansoor at yardena.mansoor@hq.doe.gov or 202-586-9326.

Quarterly Questionnaires Due February 1, 2007

Lessons Learned Questionnaires for NEPA documents completed during the first quarter of fiscal year 2007 (October 1 through December 31, 2006) should be submitted by February 1, but preferably as soon as possible after document completion. The Questionnaire is available on the DOE NEPA website at *www.eh.doe.gov/nepa* under Lessons Learned Quarterly Reports. For Questionnaire issues, contact Vivian Bowie at vivian.bowie@hq.doe.gov or 202-586-1771.

LLQR Online

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

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LLQR is introducing this icon to indicate that *LLQR* online (*www.eh.doe.gov/nepa* under Lessons Learned Quarterly Reports) provides a hyperlink to a referenced web page whose URL is too long to be useful when printed.

NAEP Environmental Excellence Award Nominations Due February 1

Does your organization's work make a significant contribution to environmental practice? The National Association of Environmental Professionals (NAEP) is seeking nominations for its annual National Environmental Excellence Awards. A nomination describes outstanding environmental contributions from a project or program that represents:

- ✔ A major achievement involving national organizations; Federal, state, or local agencies; or companies
- ✔ A national or international contribution to the environment
- ✔ Innovation in compliance methodology or integration of decisionmaking with environmental regulatory processes.

NAEP offers Environmental Excellence Awards in eight categories: NEPA, Education, Environmental Management, Planning Integration, Public Involvement/Partnership, Environmental Stewardship, Conservation, and Best Available Environmental Technology. The nomination form, which must be submitted by February 1, 2007, and additional information are available on the NAEP website at *www.naep.org* under Environmental Excellence Awards.

Address Sabotage and Terrorism Threats in EISs and EAs

DOE Interim Guidance Issued in Response to Court Rulings

All DOE EISs and EAs, whether for nuclear or non-nuclear proposals, should include explicit consideration of the potential environmental impacts of sabotage and terrorism, states interim guidance issued on December 1, 2006, to the DOE NEPA Community by Carol Borgstrom, Director, Office of NEPA Policy and Compliance. The interim guidance was prepared by the NEPA Office in consultation with the Assistant General Counsel for Environment and the Deputy General Counsel of the National Nuclear Security Administration.

Court Decisions Prompt Guidance

DOE prepared the interim guidance following two recent decisions by the United States Court of Appeals for the Ninth Circuit. The more recent of these two decisions involved DOE's EA for *Construction and Operation of a Biosafety Level-3 Facility at Lawrence Livermore National Laboratory* (DOE/EA-1442, 2002). In that October 16, 2006, decision, *Tri-Valley CAREs v. Department of Energy*, the court wrote:

> Concerning the DOE's conclusion that consideration of the effects of a terrorist attack is not required in its Environmental Assessment, we recently held to the contrary in *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission*. In *Mothers for Peace*, we held that an Environmental Assessment that does not consider the possibility of a terrorist attack is inadequate. Similarly here, we remand for the DOE to consider whether the threat of terrorist activity necessitates the preparation of an Environmental Impact Statement. As in *Mothers for Peace*, we caution that there "remain open to the agency a wide variety of actions it may take on remand [and] . . . [w]e do not prejudge those alternatives." (citations omitted)

(For a summary of the court's decision in *Mothers for Peace*, see *LLQR*, September 2006, page 19.)

Consistent with the court's recognition that an agency may take a variety of actions to comply with its ruling, the interim guidance does not prescribe particular methods to analyze the potential environmental impacts associated with sabotage or terrorism. In some circumstances, sabotage and terrorism may involve initiators (e.g., fires, explosions, drops, punctures, aircraft crashes) and potential impacts similar to those for an accident. For such circumstances, *Recommendations for Analyzing Accidents Under NEPA* (July 2002) includes example language and a discussion of ways to apply an analysis of accidents to an analysis of the potential consequences of acts of sabotage or terrorism.

"This approach may not be adequate for all situations, however," the interim guidance states, "because accident scenarios may not fully encompass potential threats posed by intentional destructive acts. For example, this approach may not adequately reflect the threat assessments for facilities with inventories of special nuclear materials. Each EIS and EA should explicitly consider whether the accident scenarios are truly bounding of intentional destructive acts. Regardless of whether additional analysis is necessary, each EIS and EA should contain a section demonstrating explicit consideration of sabotage and terrorism."

Additional Guidance Being Prepared

The Department is developing additional guidance on considering sabotage and terrorism in NEPA documents, and expects that the guidance will address such topics as:

- Determining the appropriate level of detail for analysis, consistent with the "sliding-scale" principle (e.g., a more detailed threat analysis is appropriate for a special nuclear material management facility, or for a non-nuclear facility with a significant amount of material at risk; a less detailed analysis may be adequate for a proposed office complex).
- Determining when a finding of no significant impact for an EA is appropriate in view of potential large impacts from terrorist acts.
- Determining what information regarding analyses of these threats can be released to the public.
- Considering intentional destructive acts even when some or all of the analyses may be classified; protecting classified security information through the use of classified appendices and unclassified summaries.
- Timing considerations for cases where threat analyses are needed.

The interim terrorism guidance and the 2002 accident analysis guidance are available on the DOE NEPA website at *www.eh.doe.gov/nepa* under Selected Guidance Tools. For additional information about the guidance, contact Eric Cohen, NEPA Office, at eric.cohen@hq.doe.gov or 202-586-7684, or the DOE or NNSA Office of the General Counsel, as appropriate. LL

Complex 2030 *(continued from page 1)*

Scheduled for completion in 2008, the Supplemental PEIS would support decisions regarding future missions for the complex and the related configuration of facilities and activities. The Supplemental PEIS will address alternatives involving a broad range of operations in the nuclear weapons complex, including manufacturing plutonium parts for nuclear weapons, testing weapon components, and conducting research and development.

These alternatives could affect seven of NNSA's eight primary facilities – Los Alamos National Laboratory in New Mexico, Lawrence Livermore National Laboratory in California, Nevada Test Site in Nevada, Pantex Plant in Texas, Sandia National Laboratories in New Mexico, Savannah River Site in South Carolina, and Y-12 National Security Complex in Tennessee. The Supplemental PEIS also will analyze a proposal affecting NNSA flight test operations conducted at the Tonopah Test Range, which is located on the Air Force's Nevada Test and Training Range. The Supplemental PEIS does not include proposals related to NNSA's Kansas City Plant; NNSA intends to prepare a separate NEPA analysis for proposals related to the non-nuclear activities conducted at that site.

Complex 2030 Vision

The nuclear weapons complex has undergone significant changes since the early 1990s when the Cold War ended and the United States adopted a moratorium on underground nuclear testing. DOE closed several production facilities and created the Stockpile Stewardship and Management Program to provide for certifying the safety and reliability of nuclear weapons without underground nuclear testing. The Supplemental PEIS tiers from the Stockpile Stewardship and Management PEIS (DOE/EIS-0236) completed in 1996.

The Supplemental PEIS also builds upon several other NEPA analyses completed since 1995, including the Tritium Supply and Recycling PEIS and site-wide EISs for the Nevada Test Site, Pantex, and Lawrence Livermore National Laboratory. The Supplemental PEIS will incorporate decisions made pursuant to the ongoing site-wide EISs for the Los Alamos National Laboratory (DOE/EIS-0380) and the Y-12 National Security Complex (DOE/EIS-0387) into its characterization of the status quo (No Action Alternative).

Previous Siting Decisions Not in Scope of Complex 2030 Supplemental PEIS

- Weapons assembly/disassembly at Pantex Plant
- Uranium, secondary, and case fabrication at Y-12 National Security Complex
- Tritium extraction, loading and unloading, and support operations at Savannah River Site; and tritium production at Tennessee Valley Authority reactors

NNSA envisions Complex 2030 as a continuation of the transformation begun in the 1990s. The proposed changes would support a further reduction in the size of the U.S. nuclear weapons stockpile, as directed by the President, while providing a more responsive infrastructure to meet future needs, the NOI states.

As part of Complex 2030, NNSA proposes to site a new facility (the Consolidated Plutonium Center) to manufacture plutonium parts for nuclear weapons, conduct plutonium-related research and development, undertake surveillance activities, and consolidate plutonium storage. DOE has had limited capacity to produce plutonium parts, commonly referred to as pits, since operations were halted in 1989 at the former Rocky Flats Plant in Colorado. The NOI announces the cancellation of the *Supplemental PEIS on Stockpile Stewardship and Management for a Modern Pit Facility* (DOE/EIS-0236-S2), which was initiated in 2002. (See *LLQR*, March 2004, page 2.) The Modern Pit Facility would have provided for pit production but not consolidation of other plutonium-related activities.

Other aspects of the proposed Complex 2030 vision, or "Transformation Alternative," include consolidating storage of nuclear materials, consolidating duplicative facilities and programs, relocating NNSA flight test operations, and accelerating nuclear weapons dismantlement. The Transformation Alternative and two other alternatives, including No Action, described in the NOI are summarized in the figure on the next page.

The NOI states that NNSA does not intend to analyze a Consolidated Nuclear Production Center (CNPC) as an alternative in the Supplemental PEIS. In 2005, the Secretary of Energy Advisory Board Task Force on the Nuclear Weapons Complex Infrastructure recommended that NNSA pursue a CNPC that, the NOI explains, "would include the plutonium activities of the consolidated plutonium center proposed by NNSA in its Complex 2030 vision, as well as the consolidated activities of the uranium, tritium, and high explosive operations. DOE believes that creation of a CNPC is not a reasonable alternative . . . because of the technical and schedule issues involved in constructing a CNPC, as well as associated costs." NNSA will consider comments on this matter received during the scoping process.

Team Approach Sets Course for Scoping

"We're on an aggressive schedule," acknowledged Ted Wyka, the NEPA Document Manager. "We established an integrated project team of people from NNSA sites and other parts of the Department, as well as our contractors, to prepare the Supplemental PEIS."

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Complex 2030

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Mr. Wyka began assembling the Supplemental PEIS team while drafting the NOI, which he circulated throughout NNSA and to the affected sites for input. NNSA established a 90-day public scoping period, which ends on January 17, 2007, and scheduled scoping meetings in 12 locations. To prepare for these meetings, site officials, including program managers, NEPA Compliance Officers, and public affairs staff, participated in regular video conferences and reviewed materials to be used in the scoping meetings. Technical staff from NNSA headquarters and sites met to discuss the alternatives and identify data needed for the Supplemental PEIS analysis. The Supplemental PEIS team includes many people with experience preparing the Stockpile Stewardship and Management PEIS and subsequent NEPA analyses, as well as current program and project managers.

National Nuclear Security Administration

Complex 2030 Supplemental PEIS Alternatives

	No Action	Proposed Action: Transformation Alternative	Reduced Operations/ Capability-Based Alternative*
Plutonium Manufacturing, Research and Development	Continue Manufacturing at LANL and R&D at LANL, LLNL	Consolidated Plutonium Center (CPC) at SRS, Y-12, Pantex, NTS, or Los Alamos	Continue Manufacturing at LANL and R&D at LANL, LLNL
Special Nuclear Materials Storage	Continue Storage at Current Sites	Consolidate Plutonium Storage at CPC	Consolidate Plutonium Storage at LANL
Tritium Research and Development	Continue at SRS, LANL, LLNL	Consolidate to One or More Sites or Downsize in Place	
High Explosives Research and Development	Continue at LLNL, LANL, SNL, Pantex	Consolidate to One or More Sites or Downsize in Place	
Major Environmental Testing Facilities	Continue at LLNL, LANL, SNL, NTS	Consolidate to One or More Sites or Downsize in Place	
Large-Scale Hydrodynamic Testing Facilities	Continue at LLNL, LANL, NTS	Consolidate to LANL, NTS or Downsize in Place	
Flight Test Operations	Continue at TTR	Relocate to NTS, White Sands Missile Range; TTR Upgrades	
Nuclear Weapons Dismantlement	Continue at Pantex	Accelerate at Pantex	Continue at Pantex

LANL Los Alamos National Laboratory
LLNL Lawrence Livermore National Laboratory
NTS Nevada Test Site
SNL Sandia National Laboratories
SRS Savannah River Site
TTR Tonopah Test Range
Y-12 Y-12 National Security Complex

*This alternative also involves reduced production capacities at Pantex, SRS, and Y-12.

Scoping meetings were held in November in Oak Ridge, Tennessee; North Augusta, South Carolina; Amarillo, Texas; and Tonopah and Las Vegas (photo), Nevada. About 50 people participated in each meeting, which included an opportunity for informal discussion with NNSA officials, a presentation by Mr. Wyka on the proposed scope, a brief question-and-answer period, and an opportunity for participants to provide scoping comments for the record. NNSA displayed posters and provided fact sheets describing the alternatives to be evaluated in the Supplemental PEIS. NNSA also provided tables at each meeting for use by outside organizations. Local groups took advantage of this opportunity at some of the meetings to provide information explaining their views. Additional meetings are scheduled in December in Socorro, Albuquerque, Los Alamos, and Santa Fe, New Mexico; and Livermore and Tracy, California. The last meeting will be in Washington, DC, on December 14.

Additional information on the Complex 2030 Supplemental PEIS is available at *www.Complex2030PEIS.com* or by contacting Ted Wyka at theodore.wyka@nnsa.doe.gov or 202-586-3519. LL

Yucca Mountain (continued from page 1)

In the Amended NOI (71 FR 60484), DOE announced plans to expand the scope of the ongoing Rail Alignment EIS (DOE/EIS-0369) to analyze a newly-proposed alternative rail corridor known as "the Mina route." The expanded EIS will be entitled *Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS* (Rail EIS; DOE/EIS-0250-S2 and DOE/EIS-0369). In the other Notice (71 FR 60490), DOE announced plans to prepare the *Supplement to the Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada* (Supplemental Repository EIS; DOE/EIS-0250-S1).

Integrated Scoping Meetings

The Amended NOI for the expanded Rail EIS announced five public scoping meetings in Nevada (Amargosa Valley, Caliente, Goldfield, Hawthorne, and Fallon). The NOI for the Supplemental Repository EIS announced three public scoping meetings, one in Washington, DC, and two in Nevada (Amargosa Valley and Las Vegas). A meeting in Reno, Nevada, was added later in response to public comments. The two NOIs cross-referenced each other, each listing the meetings announced in the other.

Use of an "open house" format for all of the meetings facilitated the integrated approach. DOE used this format effectively in the original scoping process for the Rail Alignment EIS (*LLQR*, June 1, 2004, page 1). In the open house format, neither DOE nor stakeholders make a formal presentation. Rather, individuals can communicate one-on-one with DOE program officials and technical experts at anytime during meeting hours and ask questions. Such communication provides DOE with valuable information about issues of concern to the public. DOE representatives met after each scoping session to share lessons learned and ensure that information and concerns were captured for the EISs.

Individuals also could provide oral comments for the record to a court reporter in a relatively private setting, which may encourage some members of the public to speak more freely and to provide more detailed comments. A DOE representative was present to listen to the oral comments in order to help ensure the comments were recorded accurately by the court reporter and to ask clarifying questions, if appropriate, to ensure that the meaning of the comments is reflected in the record.

To address any concerns that an attendee could not hear or access the formal comments of others, DOE will post transcripts of the recorded scoping comments on the web after the comment period ends, as it did previously with scoping comments for the Rail Alignment EIS.

Supplementing and Tiering in the Rail EIS

In its Transportation Record of Decision (ROD) (69 FR 18557; April 8, 2004), DOE selected the "mostly rail scenario," under which most spent nuclear fuel and high-level radioactive waste would be shipped to Yucca Mountain by rail. Implementing this decision ultimately will require the construction of a rail line to connect the repository site to an existing rail line in the State of Nevada.

The Transportation ROD also selected one of the five alternative rail corridors analyzed in the Repository EIS (i.e., the 319-mile Caliente corridor) in which to study in greater detail specific rail alignments. (See *LLQR*, June 2004, page 12.)

On April 8, 2004 (69 FR 18565), DOE issued an NOI for the Rail Alignment EIS. DOE planned that this EIS would "tier" from the Repository EIS and analyze alignments in the Caliente corridor. In rejecting a challenge to DOE's Transportation ROD by the State of Nevada, the U.S. Court of Appeals for the District of Columbia Circuit upheld DOE's tiering strategy, concluding that it was appropriate to consider the Repository EIS a "programmatic EIS" to be followed by subsequent narrower (i.e., tiered) documents. (See *LLQR*, September 2006, page 1.)

During scoping for the Rail Alignment EIS, DOE received comments recommending consideration of the Mina route. In the Repository EIS, DOE initially had considered the Mina route but eliminated it from detailed study. The route crosses the Walker River Paiute Reservation, and the Tribe had informed DOE that it would refuse to allow nuclear waste transportation across its reservation.

In response to the scoping comments on the Rail Alignment EIS, DOE held discussions with the Walker River Paiute Tribe. The Tribe informed DOE that the Tribal Council had withdrawn its objections to the completion of an EIS studying the transportation of nuclear waste across its reservation. The Tribe also stated that its Council had not decided to allow nuclear waste shipments, but that inclusion of the Mina route in an EIS would allow the Tribe to make a more informed, final decision on the matter.

In view of the Tribal Council's action, DOE initiated a study to determine the feasibility of the Mina route, and to identify a specific corridor (Mina corridor) and associated preliminary alternative alignments. Based on DOE's preliminary analysis, in comparison with other corridors, the Mina corridor appears to offer potential advantages that would simplify design and construction of a rail line, which would, therefore, be less costly to construct.

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Yucca Mountain

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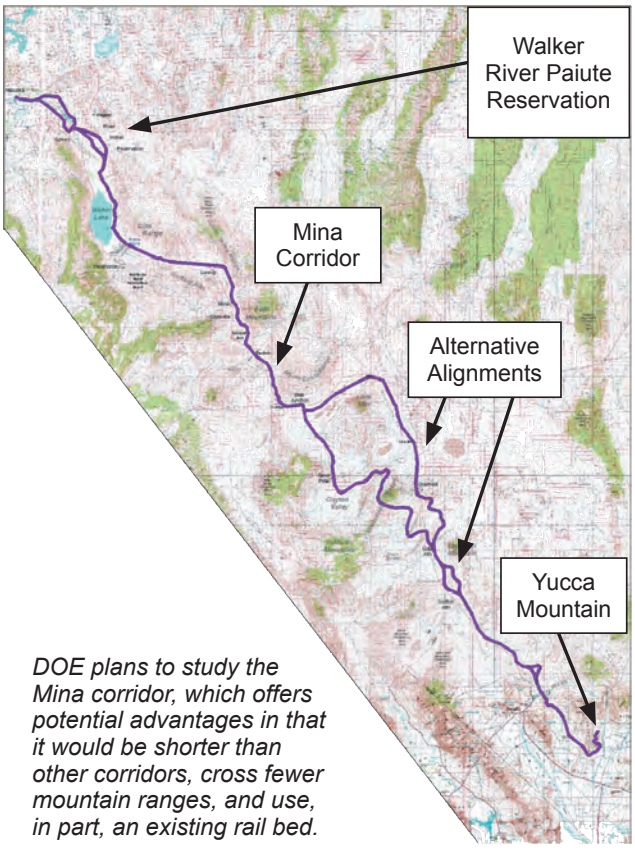

DOE plans to study the Mina corridor, which offers potential advantages in that it would be shorter than other corridors, cross fewer mountain ranges, and use, in part, an existing rail bed.

The Mina corridor also appears to have fewer land use conflicts and less land disturbance, which tends to result in lower adverse environmental impacts. For these reasons, DOE concluded that further study of the Mina route is warranted and decided to expand the scope of the Rail Alignment EIS to consider the potential environmental impacts of the Mina corridor both at the corridor level and at the alignment level.

At the corridor level, the Rail EIS will consider the potential impacts of the Mina corridor at the same level of analysis considered in the Repository EIS for the other corridors. The EIS also will review the environmental information and analyses of the other corridors from the Repository EIS and update, as appropriate. (DOE has determined, however, that one of the original five corridors, the Caliente-Chalk Mountain corridor, is not a reasonable alternative due to national security concerns.) The expanded scope also will include a detailed analysis of alternative alignments within both the Caliente and the Mina corridors.

The result will be an EIS containing both programmatic and project-specific analyses. That is, the expanded Rail EIS will supplement the programmatic corridor analyses in the Repository EIS and also contain a tiered project-specific analysis of alternative alignments in Nevada.

DOE's proposed action ultimately is to select a specific Nevada rail alignment in which to construct and operate a rail line for nuclear waste shipments to Yucca Mountain.

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Why Prepare a Supplemental Repository EIS?

The Yucca Mountain Repository EIS (*Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada* [DOE/EIS-0250]) analyzed the potential environmental impacts of a repository design for surface and subsurface facilities, a range of waste canister packaging scenarios, and a range of other repository operating conditions. The Repository EIS also analyzed the transportation of nuclear waste from commercial and DOE sites to Yucca Mountain both nationally and in the State of Nevada.

Since completing the Repository EIS in 2002, DOE has continued to develop the repository design and associated plans. For example, as now planned, the proposed surface and subsurface facilities would allow DOE to operate the repository using a primarily "canistered approach" in which all DOE waste would be placed in disposable canisters and most commercial spent nuclear fuel would be packaged at commercial sites in multipurpose transport, aging and disposable canisters (TADs). The TADs would be placed in shipping casks and transported to the repository, where they may be stored on pads or placed directly into waste packages (highly corrosion-resistant and structurally-sound metal containers) for disposal underground. DOE believes that this approach will simplify waste handling operations at the repository. In addition, DOE plans to array waste packages to achieve a "higher-thermal operating mode" in which rock surrounding the waste packages would remain above the boiling point of water for hundreds of years.

DOE will reflect these and other changes and refinements in the design of facilities and infrastructure in the repository license application, which DOE plans to submit to the Nuclear Regulatory Commission (NRC) by June 2008. Although DOE does not believe that any of the developments to the repository design or operational plans would have a significant impact on the environmental impacts considered in the Repository EIS, DOE decided to prepare the Supplemental Repository EIS to assist NRC in satisfying its NEPA responsibilities pursuant to the Nuclear Waste Policy Act (NWPA). Section 114(f)(4) of the NWPA provides that any EIS "prepared in connection with a repository . . . shall, to the extent practicable, be adopted by the Commission [NRC] in connection with the issuance by the Commission of a construction authorization and license for such repository . . . ."

DOE Issues Special Environmental Analysis For Emergency Power Plant Actions

Public concern about air quality and health effects from operation of the Mirant coal-fired power plant (Plant) in Alexandria, Virginia, operating under an Emergency Order issued by the Secretary of Energy in December 2005 and extended in September 2006, was the focus of a Special Environmental Analysis (SEA) recently issued by DOE (71 FR 69102; November 29, 2006).

DOE normally is required to prepare an EIS for a proposed major Federal action with potential to significantly affect the quality of the human environment. However, in emergency situations, pursuant to 40 CFR 1506.11, the Council on Environmental Quality's (CEQ's) NEPA regulations provide that agencies consult with CEQ to determine what alternative arrangements the agency will take in lieu of preparing an EIS. As an alternative to an EIS, DOE issued this SEA. Throughout document preparation, DOE continued its consultations with CEQ, begun before the Order was issued.

Public comment on the document, available on the websites identified below, is due by January 8, 2007, for consideration by DOE in any future decisionmaking on whether to allow the Order to expire, extend the Order, or extend the Order with mitigation measures. A temporary extension of the Order expires on February 1, 2007. The SEA considers alternative actions that DOE could take that could mitigate the adverse effects of any additional future extension of the Order. For background on the Emergency Order and the alternative NEPA arrangements with CEQ, see *LLQR*, March 2006, page 1.

EPA Support for Air Impact Analysis

The Environmental Protection Agency (EPA) was a cooperating agency in preparation of the SEA and provided its expertise in modeling and calculating emissions and health effects of sulfur dioxide and particulate matter. The SEA includes descriptions of the DOE Emergency Orders, assessments of impacts resulting from the Orders, and potential future alternative actions DOE may take in this matter. Because operation at the Plant has changed over time, pursuant to the DOE Emergency Orders and an Administrative Compliance Order with EPA, the SEA assesses impacts resulting from several different operating modes of the Plant. It also describes preliminary data from actual sulfur dioxide monitors Mirant has installed pursuant to the EPA Administrative Compliance Order.

Secretary of Energy Samuel W. Bodman, writing to express appreciation for EPA's work on air quality issues related to the Mirant power plant, said in an August 30, 2006, letter to Administrator Stephen L. Johnson that EPA staff "have demonstrated how two Federal agencies can effectively work side by side to achieve the public good while effectively carrying out the missions of their agencies." The Secretary also noted the "dedication, professionalism and cooperation exhibited by EPA staff in Headquarters and Region III" and recognized the "outstanding efforts" of Adam Kushner and Ed Messina of the Air Enforcement Division in EPA Headquarters and Judy Katz, Rich Killian, Doug Snyder, and Denny Lohman in EPA Region III.

For Further Information

The document, *Special Environmental Analysis for Actions Taken under U.S. Department of Energy Emergency Orders Regarding Operation of the Potomac River Generating Station in Alexandria, Virginia*, DOE/SEA-004, is available on the DOE NEPA website at *www.eh.doe.gov/nepa/documentspub.html* and also on the Office of Electricity Delivery and Energy Reliability website, with other materials relating to the Emergency Orders, at *www.oe.energy.gov/permitting/372.htm*.

For further information on the SEA, contact Tony Como, NEPA Document Manager, Office of Electricity Delivery and Energy Reliability, at anthony.como@hq.doe.gov. For further information on the NEPA process, contact Carolyn Osborne at carolyn.osborne@eh.doe.gov or 202-586-4596.

Yucca Mountain *(continued from previous page)*

The Bureau of Land Management, Air Force, and Surface Transportation Board are cooperating agencies in the preparation of the expanded Rail EIS. DOE also has invited the Walker River Paiute Tribe, the Bureau of Indian Affairs, and the Army to participate as cooperating agencies because the Tribe and these agencies have special expertise or regulatory authority over lands traversed in the Mina and Caliente corridors.

Next Steps

DOE plans to issue both Draft EISs by Fall 2007. Requests for further information about the Rail EIS may be addressed to Lee Bishop at lee_bishop@ymp.gov or 702-794-5558. Requests for further information about the Supplemental Repository EIS may be addressed to Jane Summerson at jane_summerson@ymp.gov or 702-794-1493.

CEQ Interagency Work Groups Continue to Develop NEPA Process Guidance

Further progress in providing draft guidance and handbooks for agency or public review has been achieved by the interagency Work Groups established by the Council on Environmental Quality (CEQ) to help implement recommendations from the NEPA Task Force report to CEQ, *Modernizing NEPA Implementation* (September 2003; *LLQR*, December 2003, page 1).

Guidance on Categorical Exclusions

CEQ published the draft guidance on *Establishing, Revising, and Using Categorical Exclusions under the National Environmental Policy Act* for public review (71 FR 54816; September 19, 2006).

This guidance is intended to assist Federal agencies in improving and modernizing their administration of categorical exclusions under NEPA. The draft guidance recommends procedures and approaches for establishing and revising categorical exclusions; involving the public; documenting development, revision, and use of categorical exclusions; and periodically reviewing categorical exclusions. (NEPA Office contact: Yardena Mansoor at yardena.mansoor@hq.doe.gov or 202-586-9326.)

Collaboration Handbook

CEQ distributed a Work Group draft *Collaboration Handbook* on September 22, 2006, to Federal NEPA Liaisons for agency review. The Office of NEPA Policy and Compliance provided DOE comments on October 27, 2006.

The purpose of this draft handbook is to assist Federal agency NEPA practitioners in expanding the effective use of collaboration as part of the NEPA process. The draft handbook outlines general principles, presents useful steps throughout the NEPA process, provides information on methods of collaboration, and presents case studies. (NEPA Office contact: Yardena Mansoor.)

Handbook on NEPA, Adaptive Management, and Environmental Management Systems

CEQ distributed the draft handbook on *The Relationship of NEPA, Adaptive Management, and Environmental Management Systems* on September 29, 2006, to Federal NEPA Liaisons for agency review. The Office of NEPA Policy and Compliance provided DOE comments on November 7, 2006.

This draft handbook uses case study examples to demonstrate how Adaptive Management and Environmental Management Systems processes can be used in conjunction with the NEPA process to achieve successful resource management outcomes and environmental compliance efficiencies. (NEPA Office contact: Jim Sanderson at jim.sanderson@hq.doe.gov or 202-586-1402.)

Further Information

For more information, see *LLQR*, June 2005, page 2 (Work Group establishment); September 2005, page 2 (DOE participation); and March 2006, pages 10, 11, 12, and September 2006, page 8 (progress). The NEPA Office will continue to participate in Work Groups' activities and the review of draft guidance, and will report on further developments in future issues of *LLQR*. For more information on the interagency Work Groups' guidance development process and the implementation of the NEPA Task Force recommendations, see the CEQ NEPA Task Force implementation website at *www.nepa.gov/ntf/implementation.html*. LL

Study of EISs Emphasizes Need for Quality and Clarity

By: Yardena Mansoor, *Office of NEPA Policy and Compliance*

Something must be wrong when people have no better understanding of a project after reading its EIS than before. Although a University of Illinois study of this problem[1] is now a decade old, the continuing focus within the Federal NEPA community (and among NEPA's critics) on making NEPA documents comprehensible and useful suggests that there is still need for improvement. Recently, the Federal Highway Administration joined forces with the American Association of State Highway and Transportation Officials and the American Council of Engineering Companies to promote better EISs. A joint work group surveyed their NEPA practitioners to identify priority issues – document quality, legal sufficiency, and continuous improvement – and then formed teams to develop recommendations.

In a concise Report, *Improving the Quality of Environmental Documents* (May 2006), the work group summarizes its research, articulates fundamental principles, and recommends tools to address two of the key issues: NEPA document quality and legal sufficiency. Although focused on highway projects, the Report offers useful perspective and broadly applicable advice for EISs for any type of project.

Basic Principles

The Report's three basic principles for preparing readable and effective NEPA documents are interrelated.

✔ ***Principle 1: Tell the story of the project*** *so that the reader can easily understand the purpose and need . . . , how each alternative would meet [it], and the strengths and weaknesses associated with each alternative.*

The Report endorses combining the discussions of affected environment and environmental consequences in a single chapter to provide an integrated discussion of environmental issues that are important to the proposal and how each alternative affects them. The Report advises practitioners to use care, however, and adequately document existing conditions when using this approach. Combining the two discussions is described further in *Blueprint for NEPA Document Content*, developed by the National Cooperative Highway Research Program, Transportation Research Board. This *Blueprint* also describes in greater detail the work group activities that led to the development of the highway EIS Report.

The Report encourages the use of headings that use a question-and-answer format, which provide context and direct readers to the information that most interests them. For example:

- Instead of using the heading "Land Use Impacts," try instead "How would the project change the character and land use of the project area?"
- Similarly, as an alternative to "Noise Impacts," the Report suggests, "How would noise levels change?"

Furthermore, the Report discusses the use of alternative formats to enhance the presentation of information in an EIS. For example, using large paper size, 11" by 17" in landscape orientation instead of 8.5" by 11" in portrait orientation, allows graphics such as tables, charts, and maps to be integrated with related text instead of presenting them on separate pages, and provides room for side-by side comparisons of alternatives or impacts. (This format would likely cost more than conventional approaches for graphic design and printing; an agency could mitigate this cost by using the approach only for certain sections, such as the summary.)

✔ ***Principle 2: Keep the document as brief as possible,*** *using clear, concise writing; an easy-to-use format; effective graphics and visual elements; and discussion of issues and impacts in proportion to their significance.*

The top concern identified by the work group was the unwieldy length and complexity of EISs, commonly approaching 1,000 pages. The work group concluded that the very length of an EIS can deter people from reading it, the exact opposite of the desired outcome. To manage document length, the Report advises, observe the Council on Environmental Quality's recommendation in its *Forty Most Asked Questions* (#25) that "if only technically trained individuals are likely to understand a particular discussion then it should go in the appendix, and a plain language summary of the analysis and conclusions of that technical discussion should go in the text of the EIS."

(continued on next page)

[1] *Assessing the Impact of Environmental Impact Statements on Citizens*, Environmental Impact Assessment Review, Vol. 16, No. 3, May 1996, pp. 171–182.

The icon used here for the first time indicates that *LLQR* online (*www.eh.doe.gov/nepa* under Lessons Learned Quarterly Reports) provides a hyperlink to the referenced web page, whose URL is too long to be useful when printed.

EIS Study *(continued from previous page)*

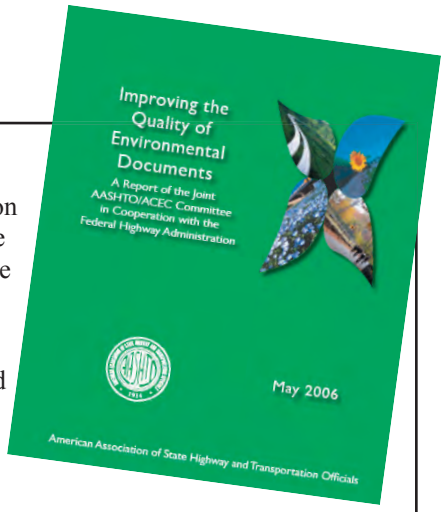
✔ ***Principle 3: Ensure that the document meets all legal requirements*** *in a way that is easy to follow for regulators and technical reviewers.*

The Report recommends that an EIS demonstrate compliance with key regulatory requirements by listing these requirements, explaining which are applicable, and describing how these have been met. (Environmental review and consultation requirements that should be conducted concurrently with and integrated with the NEPA process include those in Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, Section 404 of the Clean Water Act, and air quality conformity requirements under Section 176(c) of the Clean Air Act.)

An Example of the Applied Principles

These three principles, and the approaches recommended for addressing them, reflect in part the participation of highway agency officials and contractors who received awards in 2005 for their roles in preparing the *Alaskan Way Viaduct and Seawall Replacement Project EIS*, which examines alternatives for replacing a highway in downtown Seattle (*LLQR*, June 2005, page 18, and December 2005, page 16). This draft EIS's 27-page summary chapter uses the 11" by 17" landscape format, integrates graphics and text, and is structured using questions and answers. The EIS achieves brevity and controls production cost by putting all technical information in appendices distributed on CD.

Help the EIS Reader Understand the Model and Data



Improving the Quality of Environmental Documents identifies an EIS's discussion of data analysis as fundamental to making the impact assessment understandable and credible. It recommends several approaches to explain the *significance* of the data. For example:

- **Describe Methods Used to Develop Data.** "The persuasive power of technical data depends heavily on the reader's confidence in the methods used to generate that data," states the Report. Describing the methodologies used to develop the data requires more than naming the model used; it requires explaining in simple terms how that model works, what type of information it provides, and its inherent limitations.
- **Do Not Just Summarize the Data, Analyze It.** "The data rarely speaks for itself; the responsibility for explaining the data rests with the preparer of the NEPA document." Explaining the data involves more than reciting in text the data that appears in an accompanying table; the explanation should "connect the dots" – that is, identify patterns in the data, explain causal relationships, and explain anomalous results.

Transitions

DOE NEPA Office is Now Part of General Counsel Office

Effective October 1, 2006, the Office of NEPA Policy and Compliance, formerly within the Office of Environment, Safety and Health, is now part of the Office of the General Counsel. The organization code for the Office of NEPA Policy and Compliance is now GC-20, and its zip+4 code is now 20585-0103.

Notice Modifies NEPA Order

The Secretary issued a Notice (DOE N 451.1; October 6, 2006) that changes DOE Order 451.1B, *National Environmental Policy Act Compliance Program*, by stating that any reference made in the Order to the Assistant Secretary for Environment, Safety and Health will instead be read as a reference to the General Counsel. The Notice and Order are at *www.eh.doe.gov/nepa* under NEPA and Related Requirements. A revision of the NEPA Order will be undertaken at a later date.

Technical Amendment Changes Regulations

DOE issued a notice of final rulemaking (71 FR 68727; November 28, 2006, effective immediately) containing technical amendments to bring DOE regulations into conformance with the disestablishment of the Office of Environment, Safety and Health and the establishment of the Office of Health, Safety and Security. These technical amendments substitute officials and offices with transferred functions pursuant to the reorganization. One provision revises the DOE NEPA Regulations (10 CFR Part 1021, *National Environmental Policy Act Implementing Procedures*) to read as follows:

> **§ 1021.105 Oversight of Agency NEPA activities.** The General Counsel, or his/her designee, is responsible for overall review of DOE NEPA compliance.

NEPA Compliance Officer: Livermore Site Office

Karin King has been designated the NEPA Compliance Officer for the DOE/NNSA Livermore Site Office, replacing Dan Nakahara, who continues to serve in the Site Office as Assistant Manager for Technical Services. Ms. King has been working for DOE as an environmental engineer since 1992 and has more than 19 years of experience in the environmental field, including NEPA. She has successfully completed training as a Certified ISO 14001 Environmental Management System (EMS) Lead Auditor and is the EMS subject matter expert for the Livermore Site Office. Ms. King also has been designated by the U.S. Green Building Council as a Leadership in Energy and Environmental Design (LEED®) 2.0 Accredited Professional and serves as the DOE Green Acquisition Advocate. Karin King can be reached at karin.king@oak.doe.gov or 925-422-0756.

DOE-wide NEPA Contracts Update

The Office of NEPA Policy and Compliance is working with NNSA's Acquisition Planning Department (NNSA Service Center, Albuquerque) to plan the acquisition of new DOE-wide NEPA contracts to be established when the current ones expire in the fall of 2007. Several NEPA Compliance Officers (NCOs) have expressed interest in serving on the Source Evaluation Team. To assist this Team, all NCOs have been asked to provide projections of their potential NEPA workload during the five years that will be covered by the new contracts and are making suggestions for improving the contracts' statement of work and evaluation criteria. For further information, contact Yardena Mansoor at yardena.mansoor@hq.doe.gov or 202-586-9326.

The following tasks have been awarded recently under the DOE-wide NEPA contracts. For questions, including information on earlier tasks awarded under DOE-wide NEPA contracts, contact David Nienow at dnienow@doeal.gov or 505-845-6072. Information and resources for potential users of these contracts are available on the DOE NEPA website.

Description	DOE Contact	Date Awarded	Contract Team
EA for Decontamination and Demolition of Building 301, Argonne National Laboratory	Kenneth Chiu 630-252-2376 ken.chiu@ch.doe.gov	9/1/2006	Battelle
Site-wide EA for Rocky Mountain Oilfield Testing Center and Naval Petroleum Reserve No. 3	Michael Taylor 307-233-4835 mike.taylor@rmotc.doe.gov	9/28/2006	Battelle

Design Electronic Documents for Accessibility by All

When preparing and distributing a NEPA document, do you consider the needs of interested stakeholders who are blind or have limited motor skills? With current electronic document technology, NEPA Document Managers can meet the needs of all stakeholders with these and other disabilities. Doing so only requires a little extra effort to create accessible documents – that is, documents that provide persons with disabilities access to and use of information and data that is comparable to that provided to individuals without disabilities.

In 1998, Congress amended Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794(d)) to require Federal agencies to make their electronic and information technology accessible to Federal employees and members of the public with disabilities. Meeting these accessibility requirements also furthers a core purpose of NEPA – to ensure that environmental information is available to public officials and citizens.

NEPA Office staff recently tested screen reader software on sample web-posted DOE NEPA documents and found examples of mispronunciation (e.g., DOE pronounced as "doe" and NEPA spelled out as "N-E-P-A") that make it difficult to understand the document. In some documents, the screen reader software did not follow the document layout (reading across two columns, rather than down a single column), which made the text incomprehensible.

These and other problems can be prevented during the design of a document or when creating the Portable Document Format (PDF) or Hypertext Markup Language (HTML) file. The best approach for a particular circumstance depends on the software being used to create the NEPA document and information being communicated. For example:

- Design a chart or other graphic with the realization that someone who is colorblind may be unable to distinguish certain color-based cues.
- Ensure that links in electronic documents can be activated via keyboard (not only via a mouse) to improve accessibility for stakeholders with limited motor skills or using speech recognition software.
- When creating a PDF or HTML file, embed appropriate instructions (often referred to as "tags") that tell the stakeholder's software how to pronounce key words, follow the text flow, and otherwise render the document properly.

Many resources are available to help with making electronic documents accessible to persons with disabilities. The two primary Federal websites providing such resources are:

- *Section508.gov* – a website maintained by the General Services Administration that addresses Federal agency responsibility for ensuring the accessibility of electronic information and related tools, including links to Section 508 and resources such as a *Guide to Creating Accessible PDF Documents*.
- *www.access-board.gov* – provides information on accessible design. The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for sections of the Federal Acquisition Regulations (primarily 48 CFR 39.2) that ensure compliance with Section 508.

Additional information is available at *webaim.org*, the website of WebAIM (Web Accessibility in Mind), a nonprofit organization within the Center for Persons with Disabilities at Utah State University.

DOE NEPA Compliance Officers and NEPA Document Managers are encouraged to work with their webmasters to ensure accessibility when preparing a NEPA document to be posted on the web. LL

The State of Environmental Justice in America — 2007 Conference

DOE is teaming with the Department of Agriculture, Howard University School of Law, and the National Small Town Alliance to present a conference, March 29–31, 2007, on "The State of Environmental Justice in America" at Howard University School of Law in Washington, DC.

The aim of the Conference is to review the outcomes of the environmental justice movement, asking such questions as – what is meant by environmental justice in the 21st century? can environmental justice and economic development coexist? what remains to be done? The draft agenda indicates topics of interest to NEPA practitioners, such as community participation in environmental decisionmaking, building community capacity, and facility siting and environmental justice. Melinda Downing, Environmental Justice Program Manager, Office of Legacy Management, and Lois Thompson, Office of Health, Safety and Security, will present a paper on DOE's activities related to environmental justice. The Conference planners intend to issue a comprehensive report following the Conference.

For further information on the Conference and DOE's activities related to environmental justice, contact Melinda Downing at melinda.downing@hq.doe.gov or 202-586-7703.

Litigation Updates

*A discussion of the October 16, 2006, decision by the U.S. Court of Appeals for the Ninth Circuit regarding DOE's EA for a Biosafety Level-3 facility at Lawrence Livermore National Laboratory (*Tri-Valley Communities Against a Radioactive Environment et al. v. Department of Energy et al.; *Case No.: 04-17232) is contained in an article summarizing DOE interim guidance on the need to address sabotage and terrorism in NEPA documents on page 3 of this issue of* LLQR. *The status of other DOE NEPA cases is summarized below.*

FOIA Lawsuit Alleges NEPA Implications

Tri-Valley CAREs, a peace and environmental group based in Livermore, California, alleges that DOE exhibits "a pattern and practice of not responding to FOIA [Freedom of Information Act] requests in a timely fashion" in a complaint filed on November 14, 2006. The plaintiff alleges that DOE has failed to provide documents responsive to five FOIA requests filed since October 2003. Moreover, the plaintiff alleges that DOE's failure to provide documents has "unduly circumscribed Tri-Valley CAREs' ability to fully comment during the public comment period" for the Lawrence Livermore National Laboratory (LLNL) Site-Wide EIS (DOE/EIS-0348, April 2005) and prevented them from "determining the adequacy of the Final Site-Wide EIS's conclusions about public health risks from LLNL operations." The plaintiff further alleges that if "DOE continues to fail to produce documents, Tri-Valley CAREs will be prevented from adequately commenting on critical sections of the upcoming *Complex 2030 Programmatic EIS* . . . ." Tri-Valley Communities Against a Radioactive Environment v. Department of Energy was filed in the U.S. District Court for the Northern District of California. The court has assigned the case to its alternative dispute resolution program, and a case management conference is scheduled for February 20, 2007. [Case No.: 06-07065]

Court Decides in Favor of DOE in U.S.-Mexico Transmission Line Case

The U.S. District Court for the Southern District of California on November 30, 2006, decided in favor of DOE and the Bureau of Land Management in a suit brought by the Border Power Plant Working Group. The court found that the EIS for the *Imperial-Mexicali 230-kV Transmission Lines* (DOE/EIS-0365, December 2004) was adequate and that the agencies had not violated the Clean Air Act by failing to prepare a conformity determination. The March 2007 issue of *LLQR* will discuss the court's findings in more detail. (See *LLQR*, March 2006, page 20; December 2005, page 36; September 2005, page 25; June 2004, page 16; December 2003, page 7; and September 2003, page 22.) [Case No.: 02-0513]

DOE NEPA Litigation in Brief

Coalition on West Valley Nuclear Wastes et al. v. Department of Energy (W.D. N.Y.): Oral argument is scheduled for December 4, 2006, in this case where the plaintiffs allege that DOE is in violation of NEPA and a stipulation settling a prior lawsuit because DOE segmented its NEPA analysis at the West Valley Demonstration Project site in New York by analyzing its proposed action in two separate EISs (one on waste management, a second being prepared on decommissioning). (See *LLQR*, September 2005, page 24.) [Case No.: 05-0614]

Natural Resources Defense Council et al. v. Department of Energy (N.D. Calif.): There are no recent developments in this case in which the plaintiffs allege, among other things, that DOE's cleanup activities at the Energy Technology Engineering Center are in violation of NEPA. (See *LLQR*, September 2006, page 18; and December 2004, page 16.) [Case No.: 04-04448]

Winnemucca Indian Colony v. U.S. (D. Nev.): There are no recent developments in this case in which the plaintiffs allege, among other things, that DOE and the Defense Threat Reduction Agency (DTRA, an agency of the Department of Defense) must complete an EIS before conducting a proposed experiment known as Divine Strake, which would involve a detonation of 700 tons of ammonium nitrate and fuel oil at the Nevada Test Site. DTRA has announced that the experiment would not occur before several months into 2007. (See *LLQR*, September 2006, page 18; and June 2006, page 17.) [Case No.: 06-00497]

Touret et al. v. NASA et al. (D. R.I.): A hearing is scheduled for December 8, 2006, but a motion to reschedule is before the court. The plaintiffs, individuals living near Brown University, allege that an EA for a proposed life sciences building prepared by NASA, in which DOE was a cooperating agency, is inadequate and that an EIS is required. (See *LLQR*, September 2004, page 19.) [Case No.: 04-00198]

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Litigation Updates *(continued from previous page)*

Other Agency NEPA Litigation

MMS Agrees to Evaluate Hurricane Damage and Cumulative Impacts for Offshore Leasing

The Department of the Interior, Minerals Management Service (MMS), recently reached a settlement with the State of Louisiana to end litigation over environmental review for oil and gas leases in the Western Gulf of Mexico awarded in August 2006. Louisiana claimed that MMS had violated NEPA by not taking recent hurricane damage and cumulative environmental impacts of Outer Continental Shelf oil and gas activities into account in its EIS.

Under the October 2006 settlement, MMS agreed that, before conducting any future lease sales in the Central or Western Gulf of Mexico, it will prepare an EIS that includes impacts associated with past lease sales and issue a record of decision. For tracts leased in the August sale, each lease holder's exploration plan that MMS provides to Louisiana for review will be accompanied by an EA that analyzes "direct, indirect, and cumulative impacts of the proposed exploration plan activity, including identifying onshore support services and infrastructure that the applicant intends to utilize for the proposed activity; and identifying any onshore support services and infrastructure that have been affected by Hurricanes Katrina or Rita."

Other issues in the settlement involved the Coastal Zone Management Act. MMS agreed that the Coastal Zone Consistency Determination for the next lease sale in these areas will not tier from a previous Determination unless agreed to by the State, and that any concerns submitted by the Governor would be addressed by the Secretary of the Interior. [Case No.: 06-3813]

As a result of the settlement, MMS cancelled the lease sale scheduled for March 2007 and proposes to include those tracts in future lease sales (71 FR 66343; November 14, 2006). LL

NPS Considering DOE Manhattan Project Sites For National Park Designations

The Manhattan Project was the top-secret engineering and industrial venture by the United States to develop nuclear explosives during World War II. The National Park Service (NPS) is now studying four Manhattan Project sites to evaluate their significance and feasibility for designation as units of the National Park System: Hanford Reservation, Washington; Los Alamos National Laboratory and the town of Los Alamos, New Mexico; Oak Ridge Reservation, Tennessee; and locations in Dayton, Ohio. NPS will develop a range of alternatives that examine various means, including those not involving NPS, of ensuring long-term preservation and interpretation of these sites.

The Department of Energy takes great pride in its Manhattan Project heritage, and we hope that in working with you [NPS] we can produce a study that provides preservation and interpretation strategies that appropriately commemorate one of the most significant chapters in modern American history.

– Clay Sell
Deputy Secretary

NPS issued a notice of intent to prepare an EIS (71 FR 13158; March 14, 2006) and held public scoping meetings in the four locales. The preliminary alternatives are scheduled to be announced in the spring of 2007 to feed into a draft special resource study/environmental evaluation to be published about a year later. The study will result in recommendations to Congress for appropriate levels of NPS involvement with the sites.

DOE Supporting National Park Service Efforts

In a letter to the NPS's Associate Director for Park Planning, Facilities and Lands, May 26, 2006, Deputy Secretary of Energy Clay Sell stated, "The Department of Energy fully supports this study, which will help ensure that appropriate preservation and interpretation decisions are made regarding these historically significant properties." Dr. F. G. (Skip) Gosling, the Department's Federal Preservation Officer and Chief Historian, is coordinating the Department's activities in support of the NPS study. LL

Perspectives and Observations on EPA Training

By: Jim Sanderson and Denise Freeman, *Office of NEPA Policy and Compliance*

The Environmental Protection Agency's (EPA's) National Enforcement Training Institute (NETI) sponsored training courses on "NEPA and Adaptive Management" (October 10–12, 2006) and "NEPA and Air Impacts" (October 31–November 2, 2006), which we attended at EPA Headquarters in Washington, DC. Targeted for Federal, state, and local government and Tribal employees, the courses provided information on incorporating adaptive management elements and Clean Air Act (CAA) program requirements into the development and review of NEPA documents. With 20–25 participants in each course, the teaching formats included lecture, question and answer, and group participation. Both courses were taught by Dr. Larry Canter, a well-known professor, author, and expert in the field of environmental impact assessment – and an avid fan of LLQR. *For more information on these or other courses, visit the NETI website at* www.netionline.com *and click on Calendar.*

Adaptive Management – Jim Sanderson

Adaptive Management Is Consistent with NEPA and CEQ Regulations

As explained in the course, adaptive management is a process of viewing management actions as experiments rather than solutions, a formal and systematic approach to learning from the outcomes of management action, accommodating change and improving management.

Dr. Canter reminded course participants that NEPA and the Council on Environmental Quality's (CEQ's) NEPA implementing regulations provide for continual monitoring and assessment (which is consistent with the process of adaptive management):

- **NEPA Section 102(2)(C)** – Requires an EIS to include "the relationship between local short-term uses of man's environment and the *maintenance* and enhancement of long-term productivity . . . ." (emphasis added)
- **NEPA Section 204, item 6** – CEQ is to "document and define changes in the natural environment . . . and to *accumulate necessary data* and other information for a *continuing analysis* of these changes or trends and an interpretation of their underlying causes." (emphasis added)
- **CEQ Regulations Section 1505.2(c)** – "A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation."
- **CEQ Regulations Section 1505.3** – "Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases."

Adaptive Management Elements Are Context-Specific

Of great interest to me and the other Federal and state agency representatives in attendance was a detailed discussion on the key elements of adaptive management. Dr. Canter noted that there is no consensus on the components to be used in planning an adaptive management program; each adaptive management effort must be context-specific. However, he explained that six key elements are commonly addressed in traditional adaptive management programs:

- Regularly revisited and revised management objectives
- A model(s) of the system being managed
- A range of management choices
- The monitoring and evaluation of outcomes
- A mechanism(s) for incorporating learning into future decisions
- A collaborative structure for stakeholder participation and learning.

How to Include Adaptive Management in NEPA Documents

Dr. Canter offered the following major recommendations regarding the incorporation of adaptive management elements in NEPA documents:

- As appropriate, an agency may need to include adaptive management in mitigated FONSIs, EISs, and RODs;
- In an EIS, adaptive management information should include a discussion of planned monitoring and the decisionmaking process; and
- The initial emphasis should be on adaptive management for the preferred alternative (although adaptive management could be included to some extent for all alternatives).

Dr. Canter did not prescribe where or how adaptive management should be incorporated into NEPA documents, specifically EISs, but offered the subject up for discussion among the participants. The consensus was that, in order to do a thorough job, adaptive management should be included generally in most or all chapters of

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EPA Training *(continued from previous page)*

an EIS, and more comprehensively in an appendix. Most participants also believed that adaptive management should be included in RODs where appropriate. (No specifics on this were discussed.)

Apply Adaptive Management as a Stand-Alone Tool

The course also discussed Environmental Management Systems (EMSs) and their integration with NEPA. EMSs typically consist of five key elements: policy; planning; implementation and operation; checking and corrective action; and management review. The last two elements correspond closely to the monitor and adapt aspects of adaptive management. Dr. Canter stressed that a facility may integrate adaptive management with NEPA, EMS with NEPA, or both adaptive management and EMS with NEPA. An EMS can be one method of incorporating adaptive management into NEPA; however, adaptive management, on its own merits, also can be applied to the NEPA process as a stand-alone management tool.

Many positive benefits of adaptive management can be identified; however, concerns also exist relative to short-term and long-term monitoring and implementation costs, and possible triggering of subsequent NEPA reviews.

– Dr. Canter

He concluded that the concepts of adaptive management (and EMS) are logical and that their integration with NEPA is, ideally, a good business practice. Although more effort and resources are required to ensure this integration, adaptive management helps to "close the loop" on continual improvement and expand on the traditional NEPA model in a way that can be potentially beneficial.

Please email me at jim.sanderson@hq.doe.gov or call 202-586-1402 if you'd like to know more about course materials or would like to obtain some of this information.

Air Impacts – Denise Freeman

One of my primary responsibilities in the Office of NEPA Policy and Compliance is to review Clean Coal Technology-related NEPA documents, in which air emissions are often an important issue. As such, I was interested in attending this course.

I was pleasantly surprised to learn that Dr. Canter had selected DOE's guidance document, *Clean Air Act Conformity Requirements and the National Environmental Policy Act Process* (April 2000; available on the DOE NEPA website at *www.eh.doe.gov/nepa* under Selected Guidance Tools), as one of the teaching aids. He also noted that he thinks it is one of the best documents on how to apply CAA Conformity requirements in the NEPA process and highly recommended it as a model for other agencies.

Dr. Canter started the class by reviewing the regulatory framework essential to air impact analyses, including key requirements of NEPA, CEQ Regulations, and CAA Section 309 reviews.

I found the review of the regulations useful and believe it is something that fellow NEPA practitioners should do periodically to keep abreast of regulatory changes as well as to refresh your memories. After laying the regulatory foundation for the course, Dr. Canter provided us with a process for conducting air impact analyses (see text box).

Other topics of discussion included emission factors, emissions modeling, emissions inventories, and cumulative air quality effects assessment. We participated in group workshops that focused on reviewing air quality impacts in NEPA documents using different scenarios, such as in an energy project, wildfires and prescribed burning, ethanol plants, and a highway project.

The course concluded with the presentation of an outline of a NEPA review comment letter. The outline suggests that a review letter include a summary of the comments up front, comment categorization (major vs. minor), recommendations regarding how to address comments, and a basis for the comments (institutional, technical and scientific, scoping process, professional judgment, and best practice). Although intended for EPA Section 309 reviewers, the outline may be useful to anyone who provides comments on NEPA documents.

I recommend the NEPA and Air Impacts course for NEPA practitioners who would like to learn how to perform a technically sound review of the air impact analysis section of NEPA documents. Please email me at denise.freeman@hq.doe.gov or call 202-586-7879 if you would like more information about the course. LL

Six Step Process for Air Impact Analysis

Step 1: Identify the air pollutants

Step 2: Describe the existing conditions

Step 3: Identify the regulatory standards

Step 4: Predict impacts

Step 5: Assess the significance

Step 6: Identify mitigation measures

Training Opportunities

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

- **Explanation and Application of NEPA**
  Denver, CO: January 4-5
  Fee: $595 (GSA contract: $495)
  Multiple registration discount available

  NEPA: Premier Experts from Around the Country
  Las Vegas, NV: March 1-2
  Fee: $695 (GSA contract: $595)
  Multiple registration discount available

  Your Guide to NEPA Compliance and Enforcement
  San Francisco, CA: March 29-30
  Fee: $695 (GSA contract: $595)
  Multiple registration discount available

  Continuing Legal Education (CLE)
  800-873-7130
  www.cle.com

- **Socioeconomic Impact Analysis under NEPA**
  Durham, NC: January 24-26
  Fee: $750

  Accounting for Cumulative Effects in the NEPA Process
  Durham, NC: February 28-March 2
  Fee: $750

  NEPA Certificate Program
  Requires one core and three elective Duke University NEPA short courses and a paper. Previously completed courses may be applied. Co-sponsored by the Council on Environmental Quality.
  Fee: Included in registration for constituent courses

  Nicholas School of the Environment and Earth Sciences – Duke University
  919-613-8082
  del@nicholas.duke.edu
  www.env.duke.edu/del/continuinged/certificates.html

- **Adaptive Management**
  Las Vegas, NV: December 12-13
  Fee: $660 (GSA contract: $595)

  NEPA Process Management
  Las Vegas, NV: January 22-23
  Fee: $620 (GSA contract: $555) until 12/15/06

  NEPA Writing Workshop
  Las Vegas, NV: January 24-26
  Fee: $835 (GSA contract: $745) until 12/15/06

  Advanced Writing for NEPA Specialists
  Las Vegas, NV: February 6-8
  Fee: $835 (GSA contract: $745) until 1/15/07

  NEPA Cumulative Effects Analysis and Documentation
  Salt Lake City, UT: February 6-8
  Fee: $835 (GSA contract: $745) until 1/5/07

  Communicating Environmental Risk
  Atlanta, GA: February 20-22
  Fee: $835 (GSA contract: $745) until 1/12/07

  How to Manage the NEPA Process and Write Effective NEPA Documents
  Dallas/Ft. Worth, TX: February 27-March 2
  Fee: $1,060 (GSA contract: $945) until 1/15/07

  NEPA Cumulative Effects Analysis and Documentation/Adaptive Management
  Missoula, MT: March 6-9
  Fee: $1,060 (GSA contract: $945) until 2/2/07

  Cultural and Natural Resource Management/ Endangered Species Act Overview
  San Antonio, TX: March 20-23
  Fee: $1,060 (GSA contract: $945) until 2/15/07

  NEPA Process Management – Emphasis on Native American Issues
  Portland, OR: March 27-29
  Fee: $835 (GSA contract: $745) until 2/18/07

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

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Training Opportunities

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- **NEPA Certificate Program**
  Conducted through Utah State University. Requires successful completion of four core and three elective courses offered by The Shipley Group. Courses completed in 2000 or later may be applied toward the certificate. Also requires completion of course exams and a final project.
  Fee: $4,955 (includes tuition, course fees, and all course materials)

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

- **Comprehensive NEPA**
  Salt Lake City, UT: March 7-9
  Fee: $795

  NEPA Project Management
  Salt Lake City, UT: April 18-19
  Fee: $695

  The Cultural Side of NEPA: Addressing Cultural Resources in NEPA Analysis
  Pasadena, CA: May 16-17
  Fee: $695

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

Customized NEPA Training

- **Environmental Impact Training**
  Courses cover topics such as environmental impact assessment, cumulative effects, environmental justice, reviewing NEPA documents, and adaptive management. Topics can be combined to meet the specific training needs of clients.

  Environmental Impact Training
  830-596-8804
  info@eiatraining.com
  www.eiatraining.com

- **NEPA Toolbox™ Training**
  Courses are custom-designed to meet specific needs and are conducted at the requestor's facility. Example course content includes essentials, cumulative impacts, public participation, and EA and EIS preparation. A specialized DOE NEPA Document Manager course also is available. Services are available through a GSA contract.

  Environmental Training & Consulting
  International, Inc.
  503-274-1790
  info@envirotrain.com
  www.envirotrain.com

- **Jones & Stokes Environmental Education**
  Workshops and seminars are conducted through training organizations and university continuing education programs. Courses can be customized to meet specific needs, focusing on environmental topics, including NEPA.

  Jones & Stokes
  916-737-3000
  sgorajewski@jsanet.com
  www.jonesandstokes.com

- **Attaining Environmental Justice through NEPA**
  Denver, CO

  NEPA in Indian Country
  Denver, CO

  International Institute for Indigenous Resource Management
  303-733-0481
  iiirm@iiirm.org
  www.iiirm.org

EAs and EISs Completed July 1 to September 30, 2006

EAs

Brookhaven Site Office/Office of Science
DOE/EA-1558 (9/27/06)
National Synchrotron Light Source-II (NSLS-II), Brookhaven National Laboratory, Upton, New York
Cost: $87,000
Time: 7 months

West Valley Demonstration Project/ Office of Environmental Management
DOE/EA-1552 (9/14/06)
Decontamination, Demolition, and Removal of Certain Facilities at the West Valley Demonstration Project, West Valley, New York
Cost: $79,000
Time: 9 months

EIS

Bonneville Power Administration
DOE/EIS-0374 (71 FR 55463, 9/22/06)
(EPA Rating: EC-1)
Klondike III/Biglow Canyon Wind Integration Project, Sherman County, Oregon
Cost: $440,000
Time: 19 months

ENVIRONMENTAL PROTECTION AGENCY (EPA) RATING DEFINITIONS

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

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

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

NEPA Document Cost and Time Facts

EA Costs and Completion Times

- For this quarter, the median and average cost for the preparation of 2 EAs was $83,000.
- Cumulatively, for the 12 months that ended September 30, 2006, the median cost for the preparation of 13 EAs for which cost data were applicable was $87,000; the average was $113,000.
- For this quarter, the median and average completion times for 2 EAs were 8 months.
- Cumulatively, for the 12 months that ended September 30, 2006, the median completion time for 13 EAs was 9 months; the average was 12 months.

EIS Costs and Completion Times

- For this quarter, the cost of one EIS was $440,000.
- Cumulatively, for the 12 months that ended September 30, 2006, the cost for the preparation of one EIS for which cost data were applicable was $440,000.
- For this quarter, the completion time for one EIS was 19 months.
- Cumulatively, for the 12 months that ended September 30, 2006, the median and average completion times for 2 EISs were 16 months.

Recent EIS-Related Milestones (September 1 to November 30, 2006)

Notices of Intent

Office of Civilian Radioactive Waste Management
DOE/EIS-0250F-S1
Supplement to the Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada
October 2006 (71 FR 60490, 10/13/06; 71 FR 65786, 11/9/06, extension of scoping period and additional public meeting)

National Nuclear Security Administration
DOE/EIS-0236-S4
Supplement to the Stockpile Stewardship and Management Programmatic Environmental Impact Statement - Complex 2030
October 2006 (71 FR 61731, 10/19/06; 71 FR 62351, 10/24/06, correction; 71 FR 67117, 11/20/06, change in scoping meeting schedule)

Amended Notice of Intent

Office of Civilian Radioactive Waste Management
DOE/EIS-0250F-S2 and DOE/EIS-0369
Supplemental Yucca Mountain Rail Corridor and Rail Alignment Environmental Impact Statement, Nye County, Nevada
October 2006 (71 FR 60484, 10/13/06; 71 FR 65785, 11/9/06, extension of scoping period and additional public meeting)

Draft EISs

Office of Fossil Energy/
National Energy Technology Laboratory
DOE/EIS-0361
Western Greenbrier Co-Production Demonstration Project, Greenbrier County, West Virginia
November 2006 (71 FR 69562, 12/1/06)

Western Area Power Administration
DOE/EIS-0376*
White Wind Farm Project, Construct a Large Utility-Scale Wind-Powered Electric Energy-Generating Facility, Brookings County, South Dakota
August 2006 (71 FR 47809, 8/18/06)

DOE/EIS-0395
San Luis Rio Colorado Project, Construct, Operate, Maintain, and Connect a Double-Circuited 500,000-volt Electric Transmission Line, Right-of-Way Grant and Presidential Permit, Yuma County, Arizona
November 2006 (71 FR 65812, 11/9/06)

Extension of Comment Period

National Nuclear Security Administration/
Los Alamos National Laboratory
DOE/EIS-0380*
Site-wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Los Alamos, New Mexico
August 2006 (71 FR 51810, 8/31/06; 71 FR 52068, 9/1/06, EPA notice of extension of comment period)

Final EIS

Bonneville Power Administration
DOE/EIS-0374
Klondike III/Biglow Canyon Wind Integration Project, Sherman County, Oregon
September 2006 (71 FR 55463, 9/22/06)

Record of Decision

Bonneville Power Administration
DOE/EIS-0374
Klondike III/Biglow Canyon Wind Integration Project, Sherman County, Oregon
November 2006 (71 FR 64689, 11/3/06)

Amended Record of Decision

Office of Environmental Management/
Idaho Operations Office
DOE/EIS-0287
Idaho High-Level Waste and Facilities Disposition, Idaho Falls, Idaho
November 2006 (71 FR 68811, 11/28/06)

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* *Not previously reported in* LLQR

Recent EIS-Related Milestones (September 1 to November 30, 2006)

(continued from previous page)

Special Environmental Analysis

Office of Electricity Delivery and Energy Reliability
SEA-004
Special Environmental Analysis for Actions Taken under U.S. Department of Energy Emergency Orders Regarding Operation of the Potomac River Generating Station in Alexandria, Virginia
November 2006 (71 FR 69102, 11/29/06)

Supplement Analyses

Bonneville Power Administration

Wildlife Mitigation Program Environmental Impact Statement
(DOE/EIS-0246)

DOE/EIS-0246-SA-54*
Spokane Tribe of Indians Wildlife Mitigation - Operation and Maintenance Activities, Spokane Indian Reservation, Washington
(Decision: No further NEPA review required)
August 2006

Watershed Management Program Environmental Impact Statement
(DOE/EIS-0265)

DOE/EIS-0265-SA-271*
Big Canyon Creek Watershed Restoration, Nez Perce and Lewis Counties, Idaho
(Decision: No further NEPA review required)
July 2006

DOE/EIS-0265-SA-272*
Custer Soil and Water Conservation District Habitat Projects for FY 2006, Lower Pahsimeroi Riparian Protection Fences (Bowles, Last Chance and Last Stand Ranches), Custer and Lemhi Counties, Idaho
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0265-SA-273*
Protect and Restore Lolo Creek Watershed - Weaver Creek Crossing Upgrades, Lolo Creek Watershed, Idaho
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0265-SA-274*
Lapwai Creek Watershed Restoration, Nez Perce and Lewis Counties, Idaho
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0265-SA-275
Hofer Dam Fish Passage Project, Walla Walla County, Washington
(Decision: No further NEPA review required)
September 2006

DOE/EIS-0265-SA-276
Yakima Tributary Access and Habitat Program - Ludwick Pipeline and Lyle Creek Diversion Project, Kittitas County, Washington
(Decision: No further NEPA review required)
September 2006

DOE/EIS-0265-SA-277
Walla Walla River Basin Fish Habitat Enhancement - Gose Street, Walla Walla County, Washington
(Decision: No further NEPA review required)
September 2006

DOE/EIS-0265-SA-278
Colville Confederated Tribes Repair Work (Thirty Mile Culvert Installation and Streambank Armoring; Bridge Creek Sediment Removal; and South Nanamkin Creek Re-Contouring, Floodplain Reconnection, and Armoring), Colville Reservation, Washington
(Decision: No further NEPA review required)
September 2006

DOE/EIS-0265-SA-279
McPherson Side Channel Restoration Project, Okanogan County, Washington
(Decision: No further NEPA review required)
October 2006

DOE/EIS-0265-SA-280
Yakima Tributary Access and Habitat Program - Parke Creek (Eslinger and Sorenson) Irrigation Diversion and Fish Screen Project, Kittitas County, Washington
(Decision: No further NEPA review required)
October 2006

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** Not previously reported in* LLQR

Recent EIS-Related Milestones (September 1 to November 30, 2006)

(Supplement Analyses, continued from previous page)

DOE/EIS-0265-SA-281
Shaw Creek Passage and Sediment Improvement Project, Union County, Oregon
(Decision: No further NEPA review required)
October 2006

DOE/EIS-0265-SA-282
Butte Creek/Hampton Bridge Crossing, Union County, Oregon
(Decision: No further NEPA review required)
October 2006

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

DOE/EIS-0285-SA-310*
Vegetation Management along the North Bonneville - Midway (and Associated Underwood Tap and Hanford - Ostrander) Transmission Line Corridors, Skamania County, Washington
(Decision: No further NEPA review required)
July 2006

DOE/EIS-0285-SA-311*
Vegetation Management along the Hood River - Dalles Transmission Line Corridor, Hood River and Wasco Counties, Oregon
(Decision: No further NEPA review required)
July 2006

DOE/EIS-0285-SA-312*
Vegetation Management along the Drummond - Macks Inn Transmission Line Project, Fremont County, Idaho
(Decision: No further NEPA review required)
July 2006

DOE/EIS-0285-SA-313*
Vegetation Management along the Little Goose - Lower Granite No.1 and No. 2 500 kV Transmission Line Corridor Right of Way and Associated Right of Way Roads, Columbia County, Washington
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0285-SA-314*
Approval for the Use of Two New Herbicides: Oxadiazon and Prodiamine, Idaho, Montana, Oregon, Washington, and Wyoming
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0285-SA-315*
Vegetation Management, Danger Tree Cutting along the Chehalis - Raymond No. 1, 115 kV Transmission Line Corridor to Raymond Substation, Raymond, Washington
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0285-SA-316*
Proposal to Cut Trees within the Ostrander Substation Property Adjacent to the Big Eddy - Chemawa 230 kV Transmission Line, Clackamas County, Oregon
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0285-SA-317*
Vegetation Management along the Lower Monumental - Little Goose No. 1 and No. 2, Lower Monumental Powerhouse - Lower Monumental No. 1 and Lower Monumental Powerhouse - Lower Monumental Station Service No. 1 Transmission Line Corridors, Walla Walla County, Washington
(Decision: No further NEPA review required)
August 2006

DOE/EIS-0285-SA-318
Southern Coastal Transmission Line Project, Coos and Curry Counties, Oregon
(Decision: No further NEPA review required)
September 2006

National Nuclear Security Administration/ Y-12 National Security Complex

Final Site-wide Environmental Impact Statement for the Y-12 National Security Complex
(DOE/EIS-0309)

DOE/EIS-0309-SA-2*
Supplement Analysis for the Air and Ocean Transport of Enriched Uranium between Foreign Nations and the United States
(Decision: No further NEPA review required)
August 2006

** 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 July 1 and September 30, 2006.

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

Scoping

What Worked

- *Landowner interaction.* During the first of two scoping meetings, the majority of landowners suggested moving the transmission line route onto property where wind turbines would be located; the landowners agreed that the impacts of the powerline should be incurred by those who would directly benefit from the project.
- *Second scoping meeting.* Holding a second scoping meeting to verify concerns and issues identified at the first scoping meeting proved to be very successful.

Data Collection/Analysis

What Worked

- *Use of consultants familiar with information.* DOE saved considerable costs by using an environmental consulting firm that was familiar with the site.
- *Multiple impacts assessed.* DOE appropriately analyzed the impacts from the transmission line and substation as well as from wind farms.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Regularly-scheduled meetings.* Regularly-scheduled meetings with DOE and the contractor were held, including NEPA and project representatives.
- *Realistic schedule.* Adherence to a realistic schedule helped facilitate timely completion.
- *Well-written draft.* Preparation of a well-written draft led to the receipt of relatively few comments, so preparation of the final EIS went rather smoothly.

Factors that Inhibited Timely Completion of Documents

- *Disagreement on need for EA.* Years of debating whether there should even be an EA inhibited timely completion of the document.
- *Change in project management.* Due to a change in project managers, completion of the document took longer than was previously anticipated.
- *New information.* New information delayed the concurrence process.
- *Insufficient review time.* The EA schedule did not provide sufficient time for Headquarters review.
- *Categorically excluded actions were not implemented.* Categorical exclusions were executed but the actions were not implemented for two years. Had the categorically excluded actions been implemented, the EA could have been downscoped.
- *Funding delays.* Lack of funding caused a delay of more than six months before the NEPA process could be resumed, putting NEPA on a critical path.
- *Evolving specifications.* The technical specifications of the project were evolving.

Teamwork

Factors that Facilitated Effective Teamwork

- *Simultaneous preparation of environmental documents.* Preparation of the EIS was started in parallel with preliminary engineering of the power line and slightly behind the state siting process.
- *Frequent team meetings.* The DOE review team met frequently to consolidate consensus comments before presenting them to the contractor.

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What Worked and Didn't Work

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- *Frequent meetings and prompt action.* Regularly-scheduled meetings and a commitment to prompt reviews and revisions made by both the contractor and DOE facilitated effective teamwork.

Process

Successful Aspects of the Public Participation Process

- *Accommodation of stakeholders' concerns.* Stakeholders' concerns were accommodated to a great degree.
- *Public appreciation.* People appreciated the opportunity to be involved and have their views considered.
- *Meetings with stakeholders.* Early meetings with stakeholders, including community organizations and state and local regulatory agencies, allowed comments to be addressed and incorporated easily into the draft document.
- *Positive public perception.* The public reaction was that NEPA is a useful process and should be done early.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *Timely completion.* NEPA was completed prior to a critical decision, which should facilitate the site selection decision.
- *Cooperation with landowners.* DOE worked with landowers in siting the transmission line, designing the tower, and placing the tower in order to minimize the impacts to the agricultural fields in the project vicinity.

Agency Planning and Decisionmaking: What Didn't Work

- *Excessive reliance on contractors.* There was too much reliance on contractors to determine even the most basic facts, which made the public question DOE's judgment.

Enhancement/Protection of the Environment

- *Importance of the process doubted.* Even though the public appeared to doubt the importance of this activity, the environment was protected by the NEPA process.

Other Issue

Guidance Need Identified

- *Updated EA checklist.* Other similar facility EAs and findings of no significant impact were used in drafting this EA. An updated EA checklist would be helpful.

Effectiveness of the NEPA Process

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

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

- A respondent who rated the process as "5" stated that the project design changed significantly during the environmental review as a direct result of input from affected and interested parties during the EIS process.
- A respondent who rated the process as "5" stated that issues identified early on (i.e., the need for archeological surveys) can now be adequately addressed during design and construction.
- A respondent who rated the process as "3" stated that the NEPA process informed the project planning process.
- A respondent who rated the process as "2" stated that nothing seemed to work well during the EA process.